The Re-organized Church of Jes Us Christ of Lattor Day Saints,

Complainants.

Vs

The Church of Christ of Independence,Missouri C.A.Hall; C.A. Hall,President and others

Dofendants.

In the Circuit Court of the United States for the western division of the western District of Missouri. Depositions of witnessos taken the above entitled cause on bo-half of the defendants,in room number twelve in Hotol Temple-ton in the City of Salt Lako in tho territory of Utah on the sixteenth day of March 1892,boforo mo John M.Orr a spoci ex-aminer only appointed and qualified in the Court which this cause is pending for the purpose of ta king the testimony of witnesses for both parties to this action,in the territory of Utah and the State of Colorado,as appears by the annexed com-mission.

P.P.Kelloy and E.L.Kelley for the Complainant.

Appearances,-

Richard L.Cabell of counsel and C.A.Hall as agent for defendants.

Wilford Woodruff of lawful age,being produced,sworn and exam-ined on the part of the defendants,testified as follows,-

Direct oxamination by Mr Hall,-

1 Q-What is your full name,-please state it to the examiner?

A-Wilford Woedruf.

By Mr P.P.Kelley,-Plaintiff now asks for rule in relation to the exclusion of defen-dants witnesses from the room during tho examination of wit-nesses on behalf of defendant either here in Salt Lake City or at any other point where the depositions of witnesses may be here-after taken. We also wish the record to show Mr Ex-aminer that Bishop E.L.Kelley of the plaintiff church,who is a regularly admitted practicioner of Law,and one of tho plai-ntiffs counsel also has the liberty to examine any witness that the defendants may put on the witness stand".

In accordance with the demand of counsel for plaintiff,the witnesses are directed to remain out of the room during the progress of the examination of witness,and not to come into the room until they are called to give their testimony.

By Mr Hall,-

2 Q-I believe you stated your full name to the examiner?. A-Yes sir.

3 Q-Where do you reside? A-Well Salt Lake City is my place of res-idence.

4 Q-State where you livod before coming to Salt Lake City? A-Well you are not speaking of my place of birth,-nativity?

5 Q-No just state where you lived before you came hore? A-I lived at Nauvoo here I may say,-Nauvoo was my place of residence for a season.

6 Q-Will you state to the reporter,what church if any you are a mem-ber of at the prosent time? A-I am a member of the Church of Jesus Christ of Latter Day Saints.

7 Q-Will you state how long you have been a member?

A-About fifty-eight years.

8 Q-Will you state what the name of the church was when you first

became associated with it? A-Well I think that the first title that was given to it was"The Church of Christ".

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent, irrelevant and immeterial,and does not call for the best evidence.

9 Q-About what year was it Mr Woodruf when you first identified your self with the church? A-'33.

10 Q-1833? A-Yes sir,-1833.

11 Q-Can you state to the reporter about what time the name of the Church of Jesus Christ of Latter Day Saints was first adopted?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is irrelevant and immeterial and does not call for the best evidence.

A-Well I can't exactly state when it was".

12 Q-Well about when was it? A-Well I can't say exactly,-I can't state when it was exactly from memory. Of course the journals and records show that,but if I depend on my memory of course I cannot do so.

13 Q-I wish to present for identification to the witness King James translation of the Holy Bible. Will you identify that as a publication and book that is acknowledged as authority in the church of which you are a member? A-Yes sir,yes sir,that is the book.

14 Q-Will you please state to the reporter Mr Woodruf what office you hold in the church? A-Well I occupy the position of President of the church at the present time.

15 Q-I wish to offer now for the purpose of identification the book of Doctrine and Covenants of the Church of Jesus Christ of Latter Day Saints,containg the revelations given to Joseph Smith,Junior,the prophet,for the building of the Kingdom of God in these last days,divided into verse with references by Orson Pratt,Senior,published by the Desert News Company,printers and publishers,1890?

Counsel for the plaintiff objects to the introduction of the book above offered on the ground that it is incompetent,irrelevant and immeterial to any of the issues in this case.

16 Q-Do you identify that book as an authorized publication of the church of which you are the President? A-Yes sir that is the book.

17 Q-You recognize it as an authorized publication? A-Yes sir,our faith embraces that book or work.

The book above referred to and offered in evidence is hereupon marked as follows"deft's Exhibit A,J.M.O,"

Defendants offer also for the purpose of identification the Book of Mormon with the following title"The Book of Mormon,an account written by the hand of Mormon upon plates taken from the plates of Nephi".,which is marked,"Deft's Exhibit B,J.M.O"

18 Q-Can you identify that book(Exhibit B above referred to)Mr Woodruf as being an authorized publication of the church of Jesus Christ of Latter Day Saints of which you are now the President?

Counsel for the plaintiff objects to the question asked the witness and the book offered,on the ground and for the reason that both are incompetent,irrelevant and immeterial,to any of the issues involved in this case.

A-Yes sir I identify that book.

19 Q-As an authorized publication of of the church of which you are now the President?

A-Yes sir.

20 Q-I would like you to state to the reporter Mr Woodruf,if there are any other books that are authorized publications of the church

of which you are the President at the present time?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immeterial.
A-Well the bible,the book of Mormon and the book of Doctrine and Covenats are the standards works embraced in our faith. Of course there are other works that have been published by the church from time to time.

21 Q-I would like to get you to state Mr Woodruf if there are any other books published by the church,other than these you have mentioned specifically,that are accepted as standards of authority?A-I think there is a "pearl of great price"that is the name of the book,-"Pearl of Great Price",that I think has been accepted by the church.

22 Q-Well state what others there are,if any there are?
Counsel for the plaintiff objects to the question asked the witness for the reason that it is irrelevant and immeterial to any of the issues in this case.

23 Q-State what other books there are if any,that are regarded as authority in the church of which you are President,other than the ones you have mentioned? A-Well I cannot state any others now,-I cannot remember of any others,-not from memory I cannot say. None that I recollect now.

24 Q-I will get you to read Mr Woodruf section one hundred and nineteen of Exhibit A,including the title. You will find it on page four hundred and eighteen?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is immeterial and and incompetent.
A-That is accepted to.

25 Q-Will you state to the reporter what it is?
By Mr P.P.Kelley,-"We move to exclude the answer of the witness from the record on the ground that it is not responsive to the question.
A-I did not know that I made any answer at all, I don't know whether he wants me to read it or not?
By Mr Hall,-

27 Q-Well I will ask you to read it out aloud,-if you want to do so you can? A-(witness hereupon reads the section referred to as follows). "Section II9. Revelation given through Joseph the prophet at Far West,Missouri.,July 8th I838,in answer to the question,O Lord show unto thy servants how much thou requirest of the properties of the people for a tithing.

1 Verily thus saith the Lord,I require all their surplus property to be put into the hands of the bishop of my church of Zion.

2 For the building of mine house,and for the laying of the foundation of Zion and for the Priesthood,and for the debts of the Presidency of my church.

3 And this shall be the beginning of the tithing of my people.

4 And after that,those that have thus been tithed,shall pay one tenth of all their interest annually;and this shall be a standing law unto them for ever,for my Holy Priesthood,saith the Lord.

5 Verily I say unto you,it shall come to pass,that all those who gather unto the land of Zion shall be tithed of their surplus properties,and shall observe this law,or they shall not be found worthy to abide

among you.
6 And I say unto you,if my pooplo observe not this law, to keep it holy,and by this law sanctify the land of Zion unto me,that my statues and my judgments may be kept thereon, that it may be most holy,behold,verily I say unto you,it shall not be a land of Zion unto you.
7 And this shall be an ensample to all the stakes of Zion. Even so. AMen.

28 Q-Was that a law of the Church of Jesus Christ of Latter Day Saints while you were at Nauvoo? A-Yes sir.

29 Q-Is that the law of the church of which you are now the President? A-Yes sir.

30 Q-I will ask you now Mr Woodruf to turn to page four hundred and thirty four of Exhibit A,and read paragraph thirty nine?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent,irrelevant and immeterial,and objects to the last answer given by the witness on the same grounds.

A-"Therefore verily I say unto,that your annointings,and your washings,and your baptisms for the dead,and your solemn assemblies,and your memorials, for your sacrifices,by the sons of Levi,and for your oracles in your most holy places,wherein you receive conversations and your statues and judgments,for the beginning of the revelations and foundation of Zion,and for the glory,honor and endowment of all her municipals,are ordained by the ordinance of my holy house which my people are always commanded to build unto my holy name."

31 Q-Was that the law of the church in Nauvoo? A-Yes sir.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and calls for an opinion of the witness, and is not the best evidence.

32 Q-Is that the law of the church of which you are at the present time are the President?

Counsel for tho plaintiff objects to the question asked the witness on the ground and for the reasons,as set forth in the last preceding objection,and on the further ground that the question is leading.

A-It is.

33 Q-Will you please turn to page four hundred and fifty five and read paragraphs fifteen and sixteen?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent irrelevant and immeterial,not the best evidence and leading.

A-"And now my dearly beloved brethern and sisters,let me assure you that there are principles in relation to the dead, and the living,that cannot be lightly passed ever,as pertaining to our salvation. For their salvation is necessary and essential to our salvation,as Paul says concerning the fathers"that they without us cannot be made perfect",neither can we,without our dead be made perfect.

That is the fifteenth paragraph I have just read,and now follows the sixteenth,-"And now in relation to the baptism for the dead,I will give you another quotation of Paul,I Corinthians XV.29,"Else what shall they do that are baptized for the dead if the dead rise not at all;why are they then baptized for the dead"?

34 Q-I will ask you Mr Woodruf to state to the reporter,whether that doctrine was taught and practiced in tho Church of Jesus Christ of Latter Day Saints in Nauvoo?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,and immeterialand does not call for the best evidence.

A-Yes sir.It was.

35 Q-It was practiced and taught in the Church of Jesus Christ of Latter Day Saints at Nauvoo,when the church was there? A-It was.

36 Q-I will ask you to state the fact in regard to that doctrine as to whether or not it is practiced in the church of which you are now the President?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial to any of the issues in this case.

A-It was.

37 Q-I will ask you to state to the reporter what you know in regard to the endowments,as referred to in that revelation,being given in Nauvoo,during the life time of Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness on the groundsand for the reasons alleged in the objection to the last question objected to.

A-Joseph Smith organized the endowments in the church,and gave endowments the same as has been practiced ever since by the church. I received my endowments at the hands of Joseph Smith,and a good many others did like-wise,some of whom are still living,however there are very few living that received endowments under his hands but I will say that every endowment that has been practiced in the church since,has been as organized by him,and was organized by him,-that is by Joseph Smith,-and there has been no change made since in any sense.

38 Q-I will ask you to read section one hundred and fifteen in Exhibit A,on page four hundred and thirteen.?

Counsel for the plaintiff objects to the question on the ground that it is incompetent,irrelevant and immaterial.

39 Q-Please read the whole section? A-Section 115. Revelation given through Joseph the seer,at Far West,Missouri,April 26th 1838, making known the will of God,concerning the building up of this place,and of the Lords house,etc".

1 Verily thus saith the Lord unto you,my servant Joseph Smith,Jr.,and unto my servant Sidney Rigdon,and also my servant Hyrum Smith,and your counsellors who are and shall be appointed hereafter.

2 And also unto my servant Edward Partridge,and his counsellors.

3 And also unto my faithful servants,who are of the High Council of my church in Zion(for thus it shall be called,) and unto all the elders and people of my Church of Jesus Christ of Latter Day Saints,scattered around in all the world

4 For thus shall my church be called in the last days, even the church of Jesus Christ of Latter Day Saints.

5 Verily I say unto you all,arise and shine forth that thy light may be a standard for the nations.

6 And that the gathering together upon the the land of Zion,and upon her stakes,may be for a defence,and for a refuge from the storm,and from wrath when it shall be poured out without mixture upon the whole earth.

7 Let the city,Far West,be a holy and consecrated land unto me,and it shall be called most holy,for the ground upon which thou standest is holy;

8 Therefore,I command you to build an house unto me,for the gathering together of my saints,that they may worship me.

9 And let there be a beginning of this work and a foundation,and a preparatory work this following summer.

10 And let the beginning be made on the 4th day of July next,and from that time forth

from that time forth let my people labor diligently to build an house unto my name.
11 And in one year from this day let them re-commende laying the foundation ~~xxx~~ of my house.
12 Thus let them from that time forth labor diligently until it s hall be finished from the corner stone thereof unto the top thereof,until there shall not remain anything that is not finished.
13 Verily,I say unto you,let not my servant Joseph,neither my servant Sidney,neither my sevant Hyrum,get in any debt any more for the building of ~~my~~ house unto my name.
14 But let a house be built unto my name according to the pattern which I will show unto you.
15 And if my people build it not according to the pattern which I shall show unto their Presidency,I will not accept it at their hands.
16 But if my people do build it according to the pattern which I shall show to their Presidency,even my servant Joseph and his counsellors,then I will accpet it at the hands of my people.
17 And again,verily,I say unto you,it is my will that the City of Far West should be built up spedily by the gathering of my saints.
18 And also that other places should be appointed as stakes in the regions round about,as they shall be manifest unto my servant Joseph from time to time.
19 For behold I wil be with him,and I will sanctify him before the people,for unto him have I given the keys of this kingdom and ministry. Even so, Amen.

40 Q-The fourth paragraph of that section reads as follows,-"For this shall my church be called in the last days,-even the Church of Jesus Christ of Latter Day Saints?" A-Yes sir.

41 Q-Will you state to the reporter Mr Woodruf if that was the name that was adopted by the church,at that time and from that time onward?
Counsel for the plaintiff objects to the question sked the witness on the grounds and for the reason that it is irrelevant and immeterial and leading.
A-Yes sir,it was.

42 Q-Will you state Mr Woodruf whether you were present,or in Missouri at the time that revelation was received or given?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading and incompetent,irrelevant and immeterial.
A-What year was that given in?

43 Q-In 1838? A-In '38. I could not remember whether I was or not without looking into my journals. I couldn't tell without referring to my journals for I have kept journals of those ~~xxxx~~ things,but I couldn't say from memory where I was.

44 Q-Can you tell whether or not ~~anyxactiorx~~ there was any action taken by the church in relation to that revelation?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is leading,not the best evidence,and is incompetent,irrelevant and immeterial.
A-I don't know that I ~~xx~~ can. You spoke of the time the revelation was given?

45 Q-Yes sir,whther or not there was any action taken by the church on it at the time it was given,or subsequent to that time?
A-From memory I cannot say whether there was or was not.

46 Q-Mr Woodruf I will ask you to state to the reporter,what the general rule was in the church

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent, irrelevant and immeterial, and does not call for the best evidence as to what the rule was in the church in relation to the reception of relations.
A-Well I know of course that the revelations were given to the church, and they were given to the church by Joseph Smith while he lived.

47 Q-I will ask you to state to the reporter,-
Counsel for the plaintiff moves the court to exclude the answer of the witness from the record on the ground that it is not responsive to the question asked.

48 Q-I will ask you to state what you know in regard to any rule or law in the church, requiring revelations to be submitted to the quoroms?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is irrelevant and immeterial and does not call for the best evidence of the fact sought to be proven.

49 Q-I will add to that question,-"before being presented to the church? A-To the quoroms before being presented to the church?

50 Q-Yes sir? A-The revelations that Joseph Smith gave to the church were accepted from his mouth as the word of the Lord, and of course to what extent they were laid before the quoroms I could not say from memory. You see in those days I was absent from the church a good deal of my time on my travels, and I have not always been at the conferences that were held in those days. I will say however that the doctrines of the church have been presented at the conferences at various times, but with regard to those revelations being presented, they were always accepted as the law, whenever they have been presented to the church or, to the peolpe I should say. The church of course had confidence in Joseph Smith as a prophet, seer and revelator, and they received those revelations whenever they were given.

51 Q-I would like you to state to the reporter Mr Woodruf if you have any knowledge in regard to the fact of their being some revelations given through Joseph Smith that at the time they were given, they were not permitted to be given to the public?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immeterial, and leading, hearsay and not calling for the best evidence.
A-There is one revelation that he received that was with hold from the people, and that was on the patriarchial order of marriage, and that revelation was not given to the public for some time after its reception.
Counsel for the plaintiff moves the court to strike the answer of the witness from the record for the reasons and on the ground as set forth in the objection to the question, to which it was an answer.

52 Q-I wish to present to the witness for the purpose of identification a book of doctrine and covenants, the same being the 1835 edition of the book of doctrine and Covenants, of the said edition as the 1835 edition of said book offered in evidence for the purpose of identification by the plaintiffs at Independence on the occasion of the taking of the testimony there with the exception that the book I now offer contains the title page, which the book offered by the plaintiff did not contain. Now I will ask you Mr Woodruf to read from page one hundred and seventy five of the same book just referred to, commencing about the words,-about the middle

of the page at the words"I command you",and reading down to the word "received". it is section forty four,paragraph three

Plaintiffs counsel objects to the witness reading a part of the book unless the whole paragraph is read, and insist upon their right to have the whole paragraph read by the witness if any part of it is proposed to be read.

Q-Please read the part I ask you to read,-if they want the whole of it read,they can have it done when it comes their turn to cross-examine? A-You read the lines,-I cannot read it.

Q-"I command thee,that thou shalt not covet thy neighbors wife,Nor seek thy neighbors life. And again I command thee that thou shalt not covet thine own property,but impart it freely to the printing of the Book of Mormon,which contains the truth and the word of God,which is my word to the Gentile,that soon may go to the Jew,of whom the Lamanites are a remnant; that they may believe the gospel and look not for a Messiah to come,who has already come.

And I command thee that thou shalt pray vocally as well as in thy heart;yea,before the world as well as in secret;in public as well as in private. And thou shalt declare glad tidings; you publish it upon the mountains,and upon every high place, and among every people that thou shalt be permitted to see. And thou shalt do it with all humility,trusting in me,reviling not against revilers. And of tonets thou shalt not talk, but thou shalt declare repentence and faith upon the Saviour and remission of sins by baptism and by fire;yea,even the holy ghost.

Behold this is a great and the last commandment which I shall give unto you concerning this matter;for this shall suffice for the daily walk even unto the end of life, And misery thou shalt receive"etc.,

Do you understand that,-do you receive that as your understanding,-as the understanding of the teachings of the church at that day?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent irrelevant and immaterial,leading and calls for an opinion of the witness.

A-Yes sir.

Q-I will ask you now to turn to page one hundred and thirty two and read the fifteenth paragraph of the fifteenth section of the same book(the book referred to being the 1835 edition of the book of Doctrine and Covenants,and a copy of which is marked Exhibit E,being a part of the proof introduced by plaintiff)and read it?

A-"And now I say unto you,keep these things from going abroad unto the world,until it is expedient in me,that ye may accomplish this work in the eyes of the people,and in the eyes of your enemies,that they may not know your works until ye have accomplished the thing which I have commanded you;that when they shall know it they shall consider these things,for when the Lord shall appear he shall be terrible unto them,that fear may seize upon them, and they shall stand afar off and tremble;and all nations shall be afraid because of the terror of the Lord,and the power of his might;even so. Amen".

Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial irrelevant and immaterial,and leading,and moves the court to strike from the record the answer of the witness to the question for the same reason and on the same grounds.

Q-I will ask to now read from page two hundred and fifty of the same book paragraph six of section one hundred?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevant and immaterial,and leading.

A-And for this cause that men might be made partakers of the

glories which were to be revealed,the Lord sent forth the fulness of his gospel,his everlasting covenant,reasoning in plain-ness,and simplicity,to prepare the weak for those things which are coming on the earth;and for the Lords errand in the day when the weak should confound the wise,and the little one become a strong nation,and two should put their tens of thousands to flight;and by the weak things of the earth,the Lord should thresh the nations by the power of his spirit. And for this cause these commandments were given;they were commanded to be kept for the world in the day that they were given,but now are to go forth unto all flesh;and unto him that repenteth and sanctifieth himself before the Lord,shall be given eternal life. And upon them that hearken not to the voice of the Lord,shall be fulfilled that which was written by the prophet Moses,that they should be cut off from among the people".

Counsel for the plaintiff objects to the answer of the witness in reading the paragraph referred to in the question,and moves the court to strike the answer from the records for the reasons given in the objection xix to the question to which it is an answer.

58 Q-I will ask you Mr Woodruff to read the fourth verse of the twelfth chapter of second Corinthians?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and there is no issue in this case,on which to predicate such a question.

A-How that he was caught up into paradise,and heard unspeakable words,which it is not lawful for a man to utter.

57 Q-Now I will ask you to read the ninth verse of the seventh chapter of Matthew?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons as given in the objection to the question last objected to.

A-And as they came down from the mountain Jesus charged them, saying,tell the vision to no man,until the Son of man be risen again from the dead.

58 Q-Now I will ask you to read the tenth and eleventh verses of the thirteenth chapter of Matthew?

Counsel for the plaintiff objects to the question asked the witness, for the reasons and on the grounds as set forth in the last objection herein set forth in full.

A-And the disciples came and said unto him,why speakest thou unto them in parables?

He answered and said unto them,because it is given unto you to know the mysteries of heaven,but to them it is not given.

59 Q-I will ask you to state to the reporter Mr Woodruff,if you have any knowledge as to whether that was the rule and understanding in the Church of Jesus Christ of Latter Day Saints,before the death of Joseph Smith the prophet?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is leading,incompetent and immeterial,and calls for an opinion of the witness.

A-I don't understand the question?

60 Q-I asked you to state ~~as to whether you had any knowledge~~ if you have any knowledge as to whether or not that was the rule and understanding in the Church of Jesus Christ of Latter Day Saints,prior to the death of Joseph Smith?

A-That is in having revolations that were not given to the world,is that it?

61 Q-Yes sir? A-Oh yes. That was the case in some instances.
Counsel for the plaintiff objects to the ~~xxxxxx~~ ~~xx~~ answer of the and moves the Court to exclude the answer of the witness from the record for the reasons and on the grounds as are given to the question to which it is an answer.

62 Q-Will you state to the reporter Mr Woodruff, if what you know,-what ~~is xxxxxxxxxxxxxx~~ you know in regard in regard to the principles of plural marriage, or what is commonly called polygamy being taught in the church of Jesus Christ of Latter Day Saints, either privately or publicly?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent, irrelevant and immaterial, is leading and hearsay, and for the further reason that there is no issue in the pleadings or in the case upon which such a question can be predicated.
A-Joseph Smith of course taught that principle while in Nauvoo, and he not only taught it, but practiced it too.

63 Q-Will you state to the reporter what you know in regard to the fact, if it is a fact, of Joseph Smith's teaching that principle?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons as are given to the last question herein which has been so objected to.
A-Yes sir, he taught it.

64 Q-To whom did he teach it? A-He taught it to the twelve apostles and to some other individuals. I mean to some other individuals who were not members of the quorum of twelve.

65 Q-Will you state to the reporter what difference there is, if any in the doctrine tenets, and beliefs of the Church of Jesus Christ of Latter Day Saints as it exists at the present time in the territory of Utah, and of which you are at the present time the President, and the Church of Jesus Christ of Latter Day Saints as it existed at Nauvoo, Illinois, during the life time of Joseph Smith the prophet?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent, irrelevant and immaterial to any of the issues in this cause, and on the further ground that the Church here in Utah is not a part in this suit.
A — There is no difference at all. There is no difference in the doctrines taught then and now. There has never been any ~~xxxx~~ change in the principles and doctrines of the church since the time that it was organized down to the present time that I know anything of. Nothing in regard to that principle has been changed that I know anything ~~xxxxx~~ of.

66 Q-Will you state to the reporter Mr Woodruff what you know in regard to the records of the church at Nauvoo being brought to the territory?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is irrelevant, incompetent and immaterial.
A-The records were brought here from the historians office.

67 Q-Who was the historian here? A-Dr Williard Richards was the historian of the church for a length of time, and George A. Smith was also the historian, and the ~~xxxxxx~~ church records have been made up from the records of the church.
Counsel for the plaintiff objects to the latter part of the answer

of the page at the words"I command you",and reading down to the word "received". it is section forty four,paragraph three

Plaintiffs counsel objects to the witness reading a part of the book unless the whole paragraph is read, and insist upon their right to have the whole paragraph read by the witness if any part of it is proposed to be read.

Q-Please read the part I ask you to read,-if they want the whole of it read,they can have it done when it comes their turn to cross-examine? A-You read the lines,-I cannot read it.

Q-"I command thee,that thou shalt not covet thy neighbors wife,Nor seek thy neighbors life. And again I command thee that thou shalt not covet thine own property,but impart it freely to the printing of the Book of Mormon,which contains the truth and the word of God,which is my word to the Gentile,that soon may go to the Jew,of whom the Lamanites are a remnant; that they may believe the gospel and look not for a Messiah to come,who has already come.
And I command thee that thou shalt pray vocally as well as in thy heart;yea,before the world as well as in secret;in public as well as in private. And thou shalt declare glad tidings; yea publish it upon the mountains,and upon every high place, and among every people that thou shalt be permitted to see. And thou shalt do it with all humility,trusting in me,reviling not against revilers. And of tencis thou shalt not talk, but thou shalt declare repentence and faith upon the Saviour and remission of sins by baptism and by fire;yea,even the holy ghost.
Behold this is a great and the last commandment which I shall give unto you concerning this matter;for this shall suffice for thy daily walk even unto the end of life. And misery thou shalt receive"etc.,
Do you understand that,-do you receive that as your understanding,-as the understanding of the teachings of the church at that day?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent irrelevant and immeterial,leading and calls for an opinion of the witness.
A-Yes sir.

54 Q-I will ask you now to turn to page one hundred and thirty two and read the fifteenth paragraph of the fifteenth section of the same book(the book referred to being the 1835 edition of the book of Doctrine and Covenants,and a copy of which is marked Exhibit K,being a part of the proof introduced by plaintiff)and read it?
A-"And now I say unto you,keep these things from going abroad unto the world,until it is expedient in me,that ye may accomplish this work in the eyes of the people,and in the eyes of your enemies,that they may not know your works until ye have accomplished the thing which I have commanded you;that when they shall know it they shall consider these things,for when the Lord shall appear he shall be terrible unto them,that fear may seize upon them, and they shall stand afar off and tremble;and all nations shall be afraid because of the terror of the Lord,and the power of his might;even so. Amen".

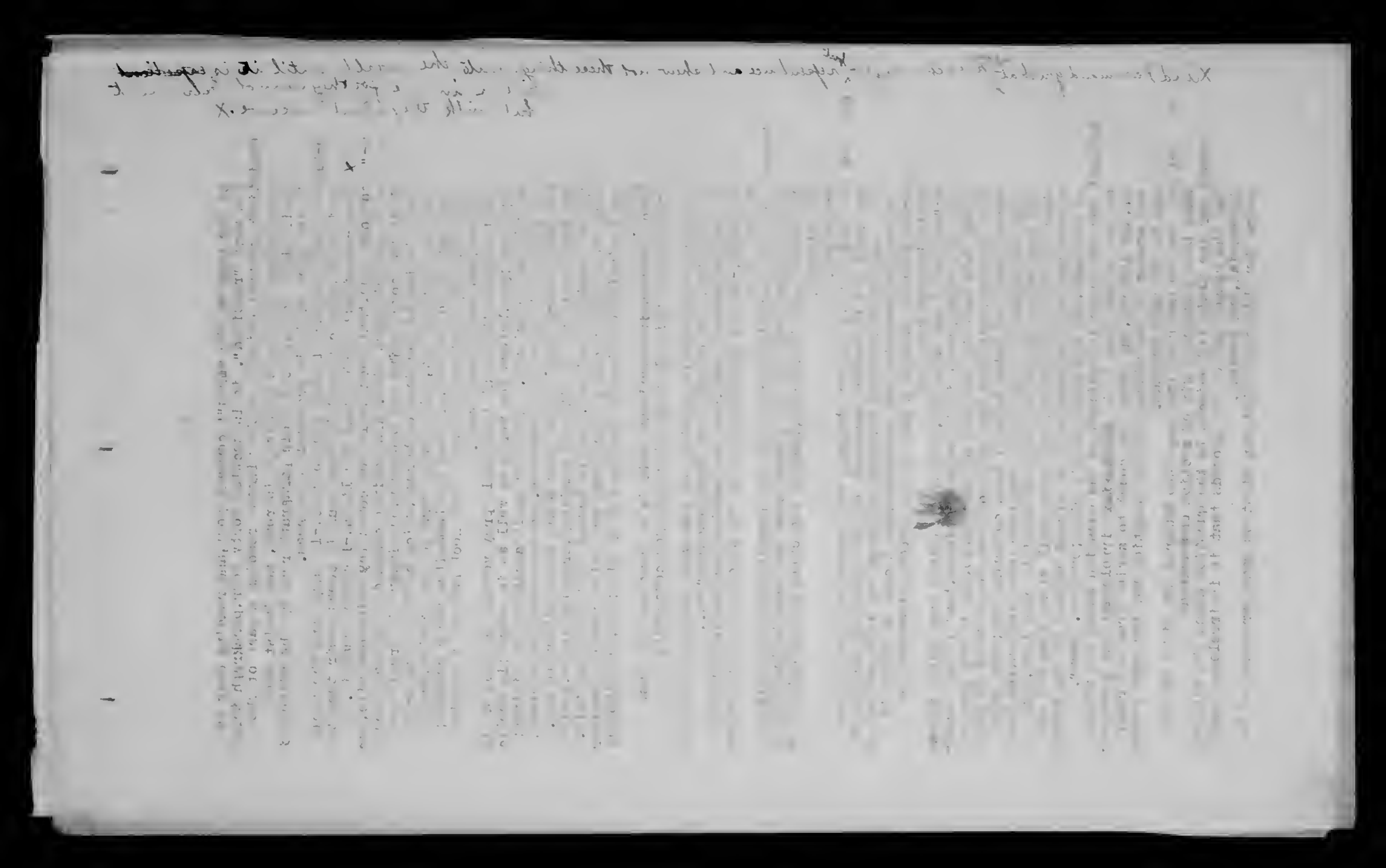
Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and immeterial,and leading,and moves the court to strike from the record the answer of the witness to the question for the same reason and on the same grounds.

55 Q-I will ask to now read from page two hundred and fifty of the same book paragraph six of section one hundred?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is irrelevant and immeterial,and leading.
A-And for this cause that men might be made partakers of the

X And I command you that ye preach unto the world until it is expedient for me, for they cannot receive. X

54 X Nor seek thy neighbors wife, nor covet thy neighbors wife, but impart it freely to the printing of the Book of Mormon, which contains the truth and the word of God, which is my word to the Gentile, that soon may go to the Jew, of whom the Lamanites are a remnant; that they may believe the gospel and look not for a Messiah to come, who has already come.



glories which were to be revealed, the Lord sent forth the fulness of his gospel, his everlasting covenant, reasoning in plain-ness, and simplicity, to prepare the weak for those things which are coming on the earth; and for the Lords errand in the day when the weak should confound the wise, and the little one become a strong nation, and two should put their tens of thousands to flight; and by the weak things of the earth, the Lord should thresh the nations by the power of his spirit. And for this cause these commandments were given; they were commanded to be kept from the world in the day that they were given, but now are to go forth unto all flesh; and unto him that repenteth and sanctifieth himself before the Lord, shall be given eternal life. And upon them that hearken not to the voice of the Lord, shall be fulfilled that which was written by the prophet Moses, that they should be cut off from among the people".

Counsel for the plaintiff objects to the answer of the witness in reading the paragraph referred to in the question, and moves the court to strike the answer from the records for the reasons given in the objection xix to the question to which it is an answer.

56 Q-I will ask you Mr Woodruff to read the fourth verse of the twelfth chapter of second Corinthians?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and there is no issue in this case, on which to predicate such a question.

A-How that he was caught up into paradise, and heard unspeakable words, which it is not lawful for a man to utter.

57 Q-Now I will ask you to read the ninth verse of the seventh chapter of Matthew?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons as given in the objection to the question last objected to.

A-And as they came down from the mountain Jesus charged them, saying, tell the vision to no man, until the Son of man be risen again from the dead.

58 Q-Now I will ask you to read the tenth and eleventh verses of the thirteenth chapter of Matthew?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds as set forth in the last objection herein set forth in full.

A-And the disciples came and said unto him, why speakest thou unto them in parables?

He answered and said unto them, because it is given unto you to know the mysteries of heaven, but to them it is not given.

59 Q-I will ask you to state to the reporter Mr Woodruff, if you have any knowledge as to whether that was the rule and understanding in the Church of Jesus Christ of Latter Day Saints, before the death of Joseph Smith the prophet?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is leading, incompetent and immaterial, and calls for an opinion of the witness.

A-I don't understand the question?

60 Q-I asked you to state xxxtoxwhetherxyouxhavexanyxknowledgexxx xxx if you have any knowledge as to whether or not that was the rule and understanding in the Church of Jesus Christ of Latter Day Saints, prior to the death of Joseph Smith?

A-That is in having revelations that were not given to the world, is that it?

61 Q-Yes sir? A-Oh yes. That was the case in some instances.
Counsel for the plaintiff objects to the ~~question~~ answer of the and moves the Court to exclude the answer of the witness from the record for the reasons and on the grounds as are given to the question to which it is an answer.

62 Q-Will you state to the Reporter Mr Woodruff,if that you know,-what ~~is matter~~ you know in regard in regard to the principle of plural marriage,or what is commonly called polygamy ,being taught in the church of Jesus Christ of Latter Day Saints,either privately or publicly?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial,is leading and hearsay,and for the further reason that there is no issue in the pleadings or in the case upon which such a question can be predicated.
A-Joseph Smith of course taught that principle while in Nauvoo,and he not only taught it,but practiced it too.

63 Q-Will you state to the reporter what you know in regard to the fact,if it is a fact,of Joseph Smith's teaching that principle?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons as are given to the last question herein which has been so objected to.
A-Yes sir,he taught it.

64 Q-To whom did he teach it? A-He taught it to the twelve apostles and to some other individuals. I mean to some other individuals who were not members of the quorum of twelve.

65 Q-Will you state to the reporter what difference there is,if any in the doctrine tenets,and beliefs of the Church of Jesus Christ of Latter Day Saints as it exists at the present time in the territory of Utah,and of which you are at the present time the President,and the Church of Jesus Christ of Latter Day Saints as it existed at Nauvoo, Illinois,during the life time of Joseph Smith the prophet?
Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent, irrelevant and immaterial to any of the issues in this cause, and on the further ground that the Church here in Utah is not a part in this suit.
A — There is no difference at all. There is no difference in the doctrines taught then and now. There has never been any ~~chan~~ change in the principles and doctrines of the church since the time that it was organized down to the present time that I know anything of. Nothing in regard to that principle has been changed that I know anything ~~about~~ of.

66 Q-Will you state to the reporter Mr Woodruff what you know in regard to the records of the church at Nauvoo being brought to the territory?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is irrelevant,incompetent and immaterial.
A-The records were brought here from the historians office.

67 Q-Who was the historian here? A-Dr Williard Richards was the historian of the church for a length of time,and George R.Smith was also the historian,and the ~~nazarus~~ church records have been made up from the records of the church.
Counsel for the plaintiff objects to the latter part of the answer

of the witness on the grounds that it is not responsive to the question asked,and moves the court to strike that part of the answer out of the records for the reason given.

69 Q-Will you state to the reporter Mr Woodruff about what proportion of the officers and members of the Church of Jesus ~~x~~ Christ of Latter Day Saints at Nauvoo at the time of the breaking of affairs there,emigrated to the Territory,-that is out here to Utah Territory at the time of the migration?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that the same is immaterial and irrelevant.

A-Well you may say that they all emigrated as a body. Of course there was some of them did not come west to the mountains,but I may say that the bulk of the church did. Of course Brigham Young led them as a people from Nauvoo,and they followed him from Nauvoo first to winter quarters and from thence to this valley. There was some four thousand at first came through with him to this valley,-I do not know the exact number but some ~~four or five thousand~~ four or five thousand I think came here in '48,and quite a number,-I should judge some fifteen hundred or two thousand came through the same season later on. From my memory I could not vouch as to the accuracy of my statements without going to the records,but there was several large companies of the people that followed us the first season,and the next season or summer there was two grand divisions came out here,-I don't know the numbers that were in them,but the records will show that,but I couldn't tell you from memory how many there was, but all the inhabitants of the church,I mean the ones at Nauvoo,or all nearly that were at Nauvoo,came here to the mountains.

69 Q-I will ask you Mr Woodruff to state to the reporter,if you were ever connected with the Times & Seasons printing office? A-Yes sir,brother Taylor and myself published the Times and Seasons. I attended to the temporal part of it and he was the editor. I attended to the business portion of the paper,and he was the editor.

70 Q-Mr Woodruff I would like to have you read from the Times & Seasons,volume five,number six,on page four hundred and seventy four,~~ereading to the bottom of page~~ commencing at the bottom of page four hundred and seventy four,and reading to the bottom of ~~page four hundred~~ of the page on the second column.

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons.that the same is incompetent,irrelevant and immaterial,and on the further ground that the book which the witness is requested to read from is not the original ~~copy~~ publication or a true copy thereof,but is ~~x~~ what ~~is~~ is known as the garbled edition thereof.

71 Q-Well Mr Woodruff I will ask you to read that letter if you have time,and can do so? A-All right,I will read it,-It is as follows,-"To the Brethern of the Church of ~~Christ of Ja~~ Jesus Christ of Latter Day Saints,living on China Creek,in Hancock County,Greeting,-(This letter is dated at Nauvoo,March 15th., 1844). Whereas Brother Richard Hewitt has called on me today to know my views concerning some doctrines that are preached in yourplace,and states to me that some of your elders say that a man having a certain priesthood,may have as many wives as he pleases,and that doctrine is taught here; I say unto you that that man teaches false doctrine,for there is no such doctrine taught here,neither is there any such thing practiced here. And any man that is found teaching privately or publicly any such doctrine is culpable,and will stand a chance to be brought before the High Council and lose his license and membership also;therefore,he had better beware what he is about.

And again I say unto you an elder has no business to undertake to preach mysteries in any part of the world,For God has commanded us all to preach nothing but the first principles unto the world. Neither has any elder any authority to preach any mysterious things to any branch of the church unless he has a direct commandment from God to do so. Let the matter of the grand councils of heaven and the making of gods worlds and devils entirely alone;for you are not called to teach any such doctrine,-for neither you nor the people are capacitated to understand any such principles,-less so to teach them. For when God commands them to teach such principles the saints will receive them. Therefore beware what you teach,for the mysteries of God are not given to all men;and unto those to whom they are given they are placed under restrictions to impart only such as God will command them;and the residue is to be kept in a faithful breast,other wise he will be brought under condemnation. By this God will prove his faithful servants,they will be called and numbered with the chosen.

And as to the celestial glory,all will enter in and possess that kingdom that obey the gospel;and continue in faith in the Lord unto the end of his days. Now,therefore,I say unto you,you must cease preaching your miraculous things,and let the mysteries alone until by and bye. Preach faith in the Lord Jesus Christ;repentance and baptism for the remission of sins;the laying on of the hands for the gift of the Holy Ghost;teaching the necessity of strict obedience unto these yet other;commencing out of the scriptures;proving them unto the people.

Cease your wrangling and divisions,and your contentions. Humble yourselves as in dust and ashes,lest God should make you an example of his wrath unto the surrounding world. Amen. In the bonds of the everlasting covenant,I am your obedient servant

Hyrum Smith."

Plaintiff moves the court to exclude from the record the letter read by way of answer by the witness,on the ground that it is incompetent,irrelevant and immaterial to any of the issues in this case,and on the further ground that it is improperly identified.

72 Q-I will ask you to look that over Mr Woodruff,and see if you can identify that as identical with the letter as it was published? A-This gentlemen(Mr P.F.Kelley)spoke about this volume not being the original. I think it is the original,but of course I do not know of any changes being made in it myself.I know of no change from the original in this. March 17th(???) 1844 that is dated,and that was several months before his death. No sir,I do not consider there is any change in that at all.

73 Q-Can you identify that as being correct and identically the same as it was when originally published? A-Yes sir,I think it is the same.

Owing to the fact that this witness pleads a pressure of business, and ill health,the further taking of his examination by way of cross examination was continued by the examiner,with the consent of the parties hereto until 8 o'clock A.M. on Thursday the 17th day of March 1892.

On the morning of Thursday the 17th of March at the hour of 9 o'clock,the same being the hour to which the further taking of the deposition of the witness Wilford Woodruff was continued,Counsel for the defendants presented to the examiner a physicians certificate hereto attached certifying that the said witness was ill,and unable to attend for this

ness should be continued until such time as said witness should be

able to attend without prejudice to his health.
On Monday morning, at the hour of 10,45(the 21st day of March 1892) the witness Wilford Woodruff,resumed the stand for cross examination.
Cross examination by P.P.Kelley,-
74 Q-Where you born Mr Woodruff? A-The place of my nativity do you mean?
75 Q-Yes sir,the place that you were born? A-I was born at Hartford Connecticut.
76 Q-When? A-The first day of March 1807.
77 Q-When did you first go to Kirtland,Ohio? A-I went to Kirtland in the spring of 1834.
78 Q-When did you first become a member of the church? A-In '35.
79 Q-At what place did you become a member of the church? A-At Richland,Oswego County,New York.
80 Q-Who baptized you? A-A man by the name of Zera Pulsifer.
81 Q-What was your business at the time you were baptized? A-Well I was a farmer, Farming and lumbering.
82 Q-Were you married or a single man at that time? A-I was a single man.
83 Q-You were not married at that time? A-No sir.
84 Q-When were you married firsty A-The 13th of April 1837.
85 Q-A that place were you married? A-At Kirtland,Ohio.
86 Q-Who married you,-that is who performed the ceremony? A-Well some of you will have to help me. His son lives up here,-the son of the man who married me lived up here,but I don't remember his name.
By Mr Smith,-Was it Richards? A-He lives up here beyond Ogden.
By Mr Kelley,
87 Q-Well it don't matter a great deal A-Well, he was one of Joseph Smith's counselors for a while.
88 Q-Was it Williams? A-Yes sir,that was the man.
89 Q-He was one of the Counsellors you say? A-He was I think a counsellor to the first Presidency for a while.
90 Q-Mr Frederick G. Williams,was it not Mr Woodruff? A-Yes sir,that is the man.
91 Q-Where you married at,-that is at what place were you married? A-At what place?
92 Q-Yes sir? A-In that respect. I can't answer that question until I know something about what you mean.
93 Q-Well what house were you married at? A-Well I think we were married at,-well at the house that President Joseph Smith occupied.
94 Q-Was the temple finished at that time in Kirtland? A-Yes sir,it was occupied.
95 Q-Then you were not married in the temple? A-No sir.
96 Q-What ceremony was used when you were married,-was it the ceremony prescribed by the church? A-It was the common ceremony of the land. I don't know that I can repeat it.
97 Q-Was it the same ceremony that was prescribed by the book of doctrine and covenants that was published at that time? A-I don't know sir whether it was or not.
98 Q-Well was there a ceremony at that time? A-I think so.
99 Q-And Williams was a minister in the church at that time? A-Yes sir.He was occupying a position in the church.
100 Q-Did the laws of Ohio at that time prescribe any particular ceremony? A-Not to my knowledge.
101 Q-Then do I understand you to say you were married according to the laws of the church as contained in the book of doctrine and covenants

at that time? A-No sir I don't recollect that I was married by that.

I02 Q-Well what ceremony was it Mr Woodruff? A-I don't recollect what the ceremony was,but it was the ceremony that was used at that time,whatever it was.

I03 Q-You don't recollect what the ceremony was? A-No sir,but as I say it was the ceremony that was used at that time but of course I don't remember now what it was then. You will understand that the marriage ceremony varies with all sects,parties and denominations on earth. Judges and Justices of the Peace all have the right to perform it,and they each generally have their own way of doing it,and whatever was the form that was in use at that time and legal was the form that was used in my case,but what it was from memory I could not state ,for I don't recollect it.

I04 Q-Well at the time you were married the church had prescribed a formula for the marriage ceremony,hadn't it? A-What is that?

I05 Q-At the time you were married the church had prescribed a formula for the marriage ceremony,hadn't it? A-Well there is a ceremony recorded in the book of doctrine and covenants,but I don't know what the date of it is. I don't recollect what the date of it is.

I06 Q-Well it was before your marriage was it not? A-Well if it was prior of course it was in the covenants,but I cannot say that it was or was not.

I07 Q-Well is it not a fact that it was in the book of covenants that was published in 1835? A-Yes sir,I believe it was.

I08 Q-And you were married before a regular minister of the church? A-Yes sir.

I09 Q-And was a minister yourself? A-No sir.

I10 Q-Well you were an officer in the church? A-Yes sir, I was.

I11 Q-And your wife was a member of the church? A-Yes sir.

I12 Q-Both yourself and your wife were members of the church at the time you were married? A-Yes sir.

I13 Q-Now do you say you were not married according to the formula in the book of doctrine and covenants? A-No sir I do not say so and I did not say so.

I14 Q-Do you say you were not married according to the laws of the church? A-I have said I don't remember that the ceremony was. I do not know that it was sir,but I suppose it was the same ceremony that was used in the church,-I expect it was,but what it was I cannot say for I do not remember.

I15 Q-Well is it not your best recollection Mr Woodruff that it was the ceremony prescribed by the church,and which was at that time contained in the book of doctrine and covenants? A-Well sir I have repeatedly told you that I cannot remember what the ceremony was.

I16 Q-Well I am not asking you what the ceremony was,-I am asking for your best recollection?

Counsel for the defendant objects to the question asked the witness on the ground and for the reasons that it is incompetent, irrelevant and immaterial,and not cross examination.
A-I say I don't recollect the ceremony,therefore I have no best recollection of it.

I17 Q-Then do you say that the ministers of the church at that time had a regular ceremony and did not adhere to it in the performance of the marriage ceremony? A-No sir I do not say anything of the kind,and I haven't said anything of the kind.

I18 Q-Well did they have a regular ceremony at that time? A-I suppose

they did,but of course I do not say that from memory,-it is only a supposition of mine. It was a good many years ago,and I can't say from memory what the ceremony was that was used in my case.

110 Q-For the purpose of refreshing your ~~memory~~ recollection I will read,paragraph two of section one hundred and eleven of Exhibit E,the same being the 1835 edition of the book of Doctrine and covenants. First I will ask you Mr Woodruff to look at this book,and say whether or not it is the 1835 edition of the book of doctrine and covenants? A-That is correct,-that is the book.

120 Q-Now for the purpose of refreshing your recollection I will read paragraph two of section one hundred and eleven,-no it is section one hundred and one fifty one in the book of doctrine and covenants in the 1835 edition thereof as follows,-"Marriage should be celebrated with prayer and thanksgiving;and at the solemnization,the persons to be married,standing together,the man on the right,and the woman on the left,shall be addressed,by the person officiating,as he shall be directed by the Holy Spirit;if there be no legal objection he shall say,calling each by their names;"you both mutually agree to be each others companion,husband and wife,observing the legal right belonging to this condition;that is keeping yourselves wholly for each other,and from all others during your lives". And when they have answered "yes",he shall pronounce them "husband and wife",in the name of the Lord Jesus Christ,and by virtue of the laws of the country,and authority vested in him;"may God add his blessing and bless you to fulfill your covenants from hence forth and forever. Amen.". Now I will ask you if that ceremony was administered to you when you were married? A-Well now I should think it altogether likely it was,but from memory I could not say that it was.

121 Q-You cannot say then whether that ceremony was performed at the time you were married? A-No sir,-not from memory,-I couldn't say.

122 Q-Well,do you recognize that as the law of the church at that time,on marriage? A-Yes sir. It certainly was the ceremony made use of and the law.

123 Q-Well,do you note Kirtland etc you note A-Yes sir.

124 Q-Where did you come from Kirtland? A-I came from Kirtland to Canada,and from Canada to Connecticut,and from Connecticut to Rhode Island.

125 Q-You were a missionary? A-Yes sir.

126 Q-You were at the General Assembly at Kirtland? A-What year do you refer to.

127 Q-Well was there more than one there? A-A General Assembly?

128 Q-Yes sir? A-Well I don't know exactly what you would count a General Assembly. We had a council once every year.

129 Q-Well I don't mean a general conference,-I mean general assemblies A-What is the date of it?

130 Q-

By Mr E.L. Kelley,-

130 Q-It was the time when the quorums were all assembled? A-Well that must have been in the spring of 1835 I presume,-Some time in the spring of 1835.

By Mr P.P.Kelley,-

131 Q-Were you present at that General Assembly at the time the quorums were all assembled? A-No sir.

132 Q-Where were you at that time? A-I was not there I was in Tennessee and Kentucky.

133 Q-That meeting was in August 1835? A-How?

134 Q-That meeting I call on you was the 17th of August 1835? A-Yes sir I suppose so.
135 Q-Were you present at it? A-Yes sir, suppose so.
136 Q-What office did you hold in the church at that time,-at least that time in 1835? A-I held the office of an elder.
137 Q-You held the office of an elder at that time? A-I think I held the office of an elder, but of course I do not know positively that I did. Well you was holding the office of an elder at that time, but of course I don't remember the date that I received confirmation or ordination.
138 Q-When did you go to Missouri, if at all? A-I went to Missouri in the spring of 1836.
139 Q-Did your family? A-No sir.
140 Q-You were not married then? A-No sir.
141 Q-Did you go to Missouri on a mission to preach? A-Yes sir, I think you could call it a mission to preach.
142 Q-How long did you live in Missouri,-or first answer and say how many came with you to Missouri? A-Two hundred and four.
143 Q-Two hundred and four? A-Yes sir.
144 Q-You were in Zion's camp? A-Yes sir.
145 Q-Where in Missouri was that located? A-Stop
146 Q-Where in Missouri was Zion's camp located? A-Well it was not located any where, but when they got into they stopped for a short time on,-I don't know the name of the creek, but they spoke in there and some around different parts of the country
147 Q-The name of Zion's camp referred only to a number of men and women who left Kirtland,-or men who left Kirtland? A-Yes sir.
148 Q-Had the parties been driven out of Jackson county at that time? A-Yes sir.
149 Q-Then the subject of your coming there was to restore them to the rights of their land,-was it under the direction of the government? A-Well they took up goods and means to assist those members of the church who had no homes, and not much to do with. Of course the history of their operations is published in the history of the times.
150 Q-Was it not the object of that expedition to restore those members to their lands and homes from which they had been driven,-as the former had promised? A-Yes sir, of course they had that in view too if they could accomplish it.
151 Q-They had been driven out of Jackson County? A-I think they had.
152 Q-At that time? A-Yes sir.
153 Q-Had they been driven from the church property? A-They had been driven from their own property that they held, but I don't know that the church held any property there at that time. I can't say about that for I do not know, but I know that they had been driven from their own property that they owned or had not there. It might have been the temple block or something like that, but there was no property held other than that.
154 Q-It had been bought at that time, had it not? A-What? What had been bought at that time?
155 Q-The temple block? A-Well I could not say as to that sir.
156 Q-Well was it bought afterwards? A-I cannot say as to that either I cannot tell you when it was bought.
157 Q-Well the church never went back down there did it? A-No sir.
158 Q-You knew Bishop Partridge did you not? A-Yes sir.
159 Q-You knew him in Kirtland? A-Yes sir.

163 Q-You knew him before he went to Missouri did you not? A-Well now look here, I don't know that I knew him in Kirtland, but I know him in Missouri. That is the way it is, I know him in Missouri, but I don't think I knew him before he came to Missouri. I think he left Kirtland before I came there, and consequently I did not know him until he or I came to Missouri.

164 Q-You know well enough,-you know ~~xxxxxxxxxxxxxxxxxxxxxxxx~~ don't you that money was contributed by the church, or its members, and put ~~in~~ in his hands for the purpose of coming to Missouri and purchasing lands? A-No sir I don't know that I do.

165 Q-You never saw a report from Bishop Partridge on that subject? A-I do not recollect now what I did.

166 Q-Well did he ever make a report to the church so far as you know? A-On what subject?

167 Q-On the subject or matter of the expedition of the money that was placed in his hands by the church for the purpose of purchasing lands in Missouri? A-Well I can't say. With regard to what was published in regard to W.W.P., if there was any thing, I cannot say. I can't say from memory what it was, and if I stated anything about it, it would have to be from memory.

168 Q-Didn't you know Mr Woodruff that the property in question was claimed as church property, and understood to be church property by all the members of the church who were at that time there in Missouri? A-The temple block?

169 Q-Yes sir? A-I say the temple block was of course supposed, ~~xxI~~ suppose it was claimed by the church as church property, but how or in what way I do not know.

170 Q-Has there ever been a time from that day until this that the church has not claimed that property as church property to your knowledge?

Counsel for the defendants objects to the question asked the witness for the reason and on the grounds that it is incompetent, irrelevant and immaterial, and not proper cross examination.

By Mr F.L. Smith,-"Let the record show that Elder John Mitchell is prompting the witness and putting him as to how he should answer the questions asked him".

By Mr Mitchell,-"I merely remarked to the witness that in answering these questions, if he did not know how to answer them to say so. That is all that I said to the witness".

By Mr Williams,-"I am an old man and I cannot remember these things like I once could, and besides all these things happened a very much many years ago, and I have seen trouble disinfranchising that I know myself, or my own knowledge and what was or has been told to me at different times. He was not prompting me as to how I should answer or anything of the kind".

By Mr Rawlings,-

170 Q-Well I will repeat my question now,-Has there ever been a time from that day to this to your knowledge, that the church has not claimed that property? A-I don't know sir whether there has been or not.

171 Q-Has not the church so far as you know,-has not the church so far as you know whenever the question has been raised,-always claimed that the property was church property, and the temple property and that it would,-that the church would eventually claim its rights in the property?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that the same is incompetent irrelevant and immaterial, and ~~xxxx~~ not cross examination.

A-Well of course the church has looked upon that temple block as a place to build a temple upon according to a certain revelation given at an early date in the church,and that is about all there is to it that I can say as to the claim of the church,or answer to the question.

170 Q-Where is that revelation? A-I think it is recorded some where in the book of doctrine and covenants.

171 Q-Is it in the 1835 edition of the book of doctrine and covenants? A-I could not say. I think though that it is recorded in the Covenants in some place,but in what place it is I could not say sir.

Counsel for the defendants objects to the question asked the witness and to the answer of the witness thereto,on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial and not cross examination.

172 Q-We will call your attention to it hereafter Mr Woodruff. Nor has there ever been a disclaimer,on the part of the church,so far as you know,to any interest in that property? In other words has the church ever disclaimed any interest in the property?

Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial and not proper cross examination.

A-I have heard of none sir.

173 Q-There was and has been no official action taken by the church looking towards a disclaimer has there,so far as your knowledge goes?

Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial,and not cross examination.

174 Q:

A-Well all I can say ~~[illegible]~~ of course about that is from rumor,or by rumor. I would have heard it by rumor if there has been,and I will say I have not heard of any.I have never heard any man claim the property directly or course,but I have heard rumors.

175 Q-Well what I asked you for is if there has been any official action of the church taken disclaiming an interest in the property. Has the church ever taken any action of that kind?

A-This church here?

176 Q-Certainly,-I did not think you recognized any church but this church here? A-not to my knowledge.

177 Q-When did you go to Far West Mr Woodruff? To Far West Missouri?

By Mr Cabell,-"Is that all the questions you desire to ask this witness regarding this temple lot or block at Independence?

By Mr Kelley,-"I don't know that it is and I don't know that it is not. I may return to it".

By Mr Cabell,-"Well I want to make a motion to strike it all from the record but I want you to get through with it before I do" so".

By Mr Kelley,-"Well if you want to do a thing,as the fellow said "Now is the time to do it",so make your motion and let us proceed".

By Mr Cabell,-"Counsel for the defendants now make the motion to strike from the record all the evidence of this witness with reference to the contribution of funds for the purpose of buying ~~the temple~~ block at Independence,Missouri.,for the reason that it is incompetent,immaterial and a flagrant violation of the rules of law with reference to cross examination.

By Mr Kelley,-

177 Q-What time did you go to Far West Mr Woodruff?

By Mr Cabell,-"Just wait one moment before answering that,so that we

and put our objection noted. We object to it for the reason that all the evidence that has been given by ~~xxxx~~ this witness shows that he does not know it of his own knowledge,but merely states it as a matter of hearsay. That objection goes to the former examination,and we object to this question just asked the witness on the grounds that it is irrelevant and immaterial and incompetent,and not cross examination."
A-You asked me why I went to Far West.

By Mr Worthy,-

178 Q-No sir,I asked you when you went to Far West? A-I never was in Far West in my life only for about two or three hours,and I don't recollect positively when it was that I was there,but if I am not mistaken it was on the 20th day of April 1839.I was there only that time,and then for a short time,and never lived there at all.

179 Q-Who of the members of the church were there when you were there if you recollect? I mean prominent members in the church,-officers,etc? A-Well there was ~~xxxxxxxxxxxxxxxxxxxx~~ a very few in my way of the members of the church that were there for they had all been driven out.

180 Q-There were some there was in memory A-Oh yes,there was a few here of course,but not many at that time I was there.

181 Q-Well how many of the church were there? A-I do not know how many.

182 Q-About how many? A-I could not say.

183 Q-Was there as many as twenty five? A-Yes sir,I should think there was twenty five perhaps.

184 Q-Do you recollect any of their names? A-Yes sir.

185 Q-Who were they? A-Brigham Young was there,-

186 Q-Is that all? A-Orson Pratt was there;John Taylor;George A.Smith ,and I think Judge Elias Smith was there also.

187 Q-Was not Judge Elias Higbee there too? A-I don't think he was there,-from memory I do not think he was there at that time, or I can't tell,for those are matters that I have had to ~~xxx~~ rely on my memory for.

188 Q-Will you say that Elias Higbee was not there at that time? A-No sir I will not say that he was there,or that he was not there.

189 Q-Did you know a man there by the name of Gates at that time? A-I could not say.

190 Q-E.J.Gates? A-I don't recollect it.

191 Q-Were you ever acquainted with E.J. Gates? A-What was his first name? What was the ~~xxx~~ "E" for?

192 Q-I don't know the first name? A-Well I don't recollect the name right.

193 Q-Did you know any person there by the name of Gates? A-Yes sir there was,-

194 Q-I think the name was Edward J. Gates? A-I don't recollect him. He was there in a day as living in Provo,-old Jacob Gates.

195 Q-Was Jacob Gates there at that time? A-I think not.

196 Q-Now was the doctrine of the church at that time,an abandonment of the idea of the building of the temple in Jackson County? A-I don't think there was anything said about it at all.

197 Q-In your cross examination you referred to a revelation given at some time commanding the building of a temple in Jackson County or in substance that? A-Yes sir.

198 Q-Now Mr Woodruff I will read from Exhibit E,being the edition of 1835 of the book of doctrine and covenants,from section four paragraphs one and two,to be found on page eighty nine of said exhibit E,It is a revelation given the 22nd and the 23rd day of September 1832,and is as follows,-"Section four, A revelation given

the 22nd and 23rd of Sept.1832.,on Priesthood.

1 A revelation of Jesus Christ unto his servant Joseph Smith,Jr.,and six elders as they united their hearts and lifted their voices on high;yea,the word of the Lord concerning his church,established in the last days,for the restoration of his people,as he has spoken by the mouth of his prophets, and for the gathering of his saints to stand upon Mount Zion, which shall be the city New Jerusalem;which city shall be built,beginning at the temple lot,which is appointed by the finger of the Lord,in the western boundaries of the state of Missouri,and dedicated by the hand of Joseph Smith,Jr.,and others with whom the Lord was well pleased.

2 Verily,this is the word of the Lord,that the City New Jerusalem shall be built by the gathering of the saints,beginning at this place,even the place of the temple,which temple shall be reared in this generation;for verily this generation shall not all pass away until an house shall be built unto the Lord,and a cloud shall rest upon it,which cloud shall be even the glory of the Lord,which shall fill the house. And the sons of Moses,according to the holy priesthood which he received under the hand of his father in law Jethro, and Jethro received it under the hand of Caleb,and Caleb received it under the hand of Elihu,and Elihu under the hand of Jeremy,and Jeremy under the hand of Gad,and Gad under the hand of Esaias,and Esaias received it under the hand of God;Esaias also lived in the days of Abraham and was blessed by him,which Abraham received the priesthood from Melchisedec,who received it through the lineage of his fathers,even till Noah,and from Noah till Enoch,through the lineage of their fathers,and from Enoch to Abel who was slain by the conspiracy of his brother who received the priesthood by the commandments of God by the hand of his father Adam,who was the first man;which priesthood continueth in the church of God in all generations,and is without beginning of days and end of years". Now is that the temple lot in Jackson County,Missouri to which you refer?

Counsel for the defendants objects to this question unless the witness [illegible] on the grounds that the witness is not called upon to say anything about that particular passage in the book of doctrine and covenants,and for the further reason that it is incompetent,irrelevant and immaterial? A-~~Yes sir that is it~~.

199 Q-Answer the question? A-Yes sir that is it.

200 Q-Now when did you go to Nauvoo,Illinois,if at all? A-I went to Nauvoo in '39,-I think it was in the spring of 39 that I went there. That was the time I think we went there,but of course I could not say just when it was that we did go ~~there~~ to Nauvoo without referring to my journal,-however,-I think it was in the spring of 1839 that we went there.

201 Q-Well now shall we refresh your recollection? A-Very well I will be very glad for you to do so.

202 Q-The church was driven from Far West in the latter part of '38,k that was the time they were driven from there or notified to leave and most of them left in 1839 early in '39,or in the fore part of '39? A-Yes sir,I remember that we stopped in Quincy for a while,and from there we went to Nauvoo,but of course as to the day or date,or exact time of any of these movements I could not say sir. We went there in 1839 I think,only I could not swear to anything only the date,-I mean to anything about the dates of these various events unless I refer to my journals'

203 Q-Were you at the conference in Far West,Missouri in 1838? A-No sir.

204 Q-Were you at any general meeting of the church at Far West in

1955? A-No sir. I never was in Far West as I have already stated only once and been for only a few hours,when I went up there in April 1949 on I believe,with A Perk Lyman.

203 Q-That is the only time you say you were ever there at Far West?
A-Yes sir.

206 Q-Were you ordained by the vote of the church to be an apostle?
A-Yes sir.

207 Q-Who did that and when? A-Mr Kimball.

208 Q-A Where was? A-Well this was at Far West. I mean,-yes,we
[illegible] Far West. We held a meeting there at that time,and I
only spent a few hours there at that time,but during the time
was there a meeting was held and I was chosen and received by
overwhelming votes.

209 Q-What time in the year 1949 was this? A-It was in April.

210 Q-What was the meeting called for? Those prophecies you have named were
presented? A-Yes sir.

211 Q-Was Joseph Smith present? A-Yes sir.

212 Q-Was Sidney Rigdon present? A-Yes sir.

213 Q-Was William Smith present? A-No sir.

214 Q-Was Hyrum Smith present? A-No sir he was not there.

215 Q-Was these revelations received called for and received unanimously?
A-Yes sir.

216 Q-Was that revelation received called for and received unanimously?
A-Yes sir.

217 Q-Was it that revelation? A-It is the same.

218 Q-Was it a revelation? A-It is presented to the book of doctrine and cov-
enants.

219 Q-Was it known to the [illegible] or commandments? A-I don't
tell you the number or [illegible],but it is in there.

220 Q-Well was that revelation received by the church and voted upon?
Was it ever submitted to the church for approval?
Counsel for the defendants objects to the question asked the witness
on the ground and for the reason that it is incompetent,irrele
vant and immaterial,and not proper cross examination.
A-I can't say.

221 Q-Again what is your best recollection as to that? A-I cannot say
[illegible] when it was given.

222 Q-If could not have been or become a part of the church faith un-
less it had been first submitted to the church for its approv
al,could it be correct?
Counsel for the defendants objects to the question as to the witness
on the ground and for the reason that it is incorrect,irrel
evant and immaterial and not proper cross examination.
A-Well I never heard that question I will say that whenever
a revelation was given by the prophet Joseph to the
church,it was accepted and received by the church as a gener
al principle,-I was personally received as it came from the
prophet.

223 Q-

A- If it was a part of the church law until it was accepted by
the church? Is that not also true? A-No sir it is not true.
That is am I said before. These revelations when they were
given were always accepted by the church,and it was not the
practice that revelations were given by the prophet for them
to be presented to the church for a vote of acceptance before they
became the law and rule of the church. Joseph was looked up-
on and believed to be a prophet,seer and revelator,and his
revelations were invariably accepted by the church without
question when presented to the church.

225 Q-But were they not required to be presented to the church for the
churches acceptance? A-No sir.

224 Q-Is that not the law of the church and

church at that time? A-I do not recollect of any law or rule of the church that requires that.

225 Q-Don't you know the law of the church that all things should be done by common consent? Don't you know that law, and was that not that the law at that time,-that all things should be done by common consent within the church? A-Yes sir in some things it was. In the matter of the transaction of temporal business, and in the quorums, etc it was.

226 Q-Was that not the law of the church that in all affairs pertaining to what should or could be the law of the church that course was to be pursued, the matter was to be submitted to the people for its sanction? A-I have no recollectio of any rule given to that effect, and yet it might have been.

227 Q-Is it not a fact that all the revelations that were published in the book of Doctrine and Covenants in the 1835 edition were so submitted to the church and accepted by the church, and formally voted upon? A-I think there were times at the conferences and other places where the books were all presented to the church. I think that was done, but as to the date and time I could not say. 228 Q- What books do you refer to? A-

229 Q-Well were not the revelations that are contained in the book of doctrine and covenants, presented to the church, and accepted by the church upon a vote both of all the quorums of the church, and of the members present at a conference before they were ever published in the book of Doctrine and Covenants at all? A-Not to my knowledge.

230 Q-Could they put a revelation in the book of doctrine and covenants without the sanction of the church, and have it legally accepted? A-Some of those revelations were first published and printed before they were taken from the manuscript that contained them, or that which they had as a written will that day and were given by the prophet, and then the church was called on to accept this I do not know.

231 Q-Were they ever presented to the general assembly first? A-I do not know.

232 Q-Have you read the history of it in the book of doctrine and covenants,-there they are presented? A-That may have been done, but I am not positive, and I do not know of course, only what I have read about it or heard about it. As I was in Kirtland I came out of the church before that was done, and what I have heard or read about it I suppose is immaterial.

233 Q-For the purpose of refreshing your recollection I will read to you from memo. book, sir,-there is only one paragraph in it,-it is on page one hundred and seventy nine of Exhibit E, the which I have heretofore read, and which is the 1835 edition of the book of doctrine and covenants, as follows,- "Revelation to Joseph Smith, Jr., Oliver Cowdery and John Whitmer, given July 1830.

Behold I say unto you that you shall not yet translate, but be devoted in the writing of the scriptures, and to preaching, and to confirming the church at Colesville; until after you shall go to the west to Lamoni, for that conference; and then it shall be given you what you shall do. And all things shall be done by common consent in the church, by much prayer and faith; For all things you shall receive by faith. Amen" Now that is a revelation to Oliver Cowdery, Joseph Smith and David Whitmer? A-So it states.

the bible and book of Mormon and doctrine and covenants have been published to the church.

234 Q-Well that was the law on that subject at that time if it was not,- the law of course currently. At the time the book of Covenants [illegible] was not the law? A-Oh of course, the book of Covenants was received and accepted.

235 Q-I will now read from Paragraph Four,section Fifty one of the Book of Doctrine and Covenants,on page [illegible] as follows,-"They shall not leave this place until after my forthcoming and my servant Joseph shall be ordained a priest over my church by the voice of all,and that he shall be free then shall go. And with them shall go my brethren where there between them and this place,and tell him that these things which are written are true. Now of course that refers to him, not about them. I have read the revelation to him,he will be held responsible to keep it through, [illegible] the church [illegible] to come to [illegible] church [illegible] of that [illegible]." Now that is the revelation I referred to, here I will ask you how if the church [illegible] unless [illegible] church [illegible] accepted? Of course there [illegible] I believe [illegible] upon.

236 Q-Well [illegible] of you or any [illegible] church [illegible] they [illegible] accepted? A-Well I don't know that [illegible].

237 Q-You [illegible] the church, are you able to [illegible] a revelation given to the church? A-Of course as I have said before,the day of the revelation of this church [illegible] the day of the revelation through Joseph Smith,whenever he [illegible] Joseph said,[illegible] a revelation to the church it was accepted by the church before it [illegible] to say a moral necessity,because I have revelations [illegible] they were accepted by the church people, [illegible] of a formal [illegible],and by reason of the [illegible] they came to the people and the church as a revelation [illegible] to have [illegible] the prophet,seer and revelator,[illegible] office it was to receive the commandments of God and [illegible] to his church [illegible],and of course revelations to receive the revelations in the book of doctrine and [illegible].

238 Q-They were accepted by the [illegible] before they were what they were supposed? A-So sir.

239 Q-All the revelations given to Joseph Smith not before his death, some of them or revelations presented for acceptance? A-Yes sir,[illegible] down [illegible] other way.

240 Q-Did [illegible] or commercial form? A-Yes sir. Nauvoo in fact is one of the [illegible].

241 Q-But the church would not be bound by anything until it had been [illegible] A-That is that?

242 Q-I say the church would not be bound by anything until it had been presented to and accepted by them could it? A-I can't say as to that.

243 Q-Don't you know that has been the practice of the church ever since the organization in 1830 or '29,-that every thing must be presented to the church in some form or other for its adoption,before the church can be regularly bound by it? A-As I said before whenever revelations are given by the church or to the church I should say,-when they are given by the church and printed and delivered to the people ,they are accepted by the people. The people have accepted it when that has been done.

244 Q-Well now Mr Woodruf I insist upon the answer to that question

245 Q-Well you haven't answered it yet? The question is this,-Has it not been the practice of the church from the time of its organization down to the present time,and practiced by you since you have been president of this church here,to present everything concerning the doctrine of the church to the church for its adoption,before the church could be bound by it? A-Well of course. That is a principle of the church.

246 Q-Well sir,I thought so,and that is the principle you went on when you presented the matter before for adoption? A-Yes sir,of course.

247 Q-That is the rule is it not? A-Certainly.

248 Q-And that is the principle upon which or under which the church was governed prior to 1886,-that everything was presented in some way or other for adoption? A-Yes sir.

249 Q-Presented to the church for adoption? A-Yes sir.

250 Q-And if not presented to the church for adoption and adopted by the church,the church would not be bound by it,as a church? A-That is true?

251 Q-I say if it is not presented to the church and adopted by the church,the church would not be bound by it as a church? Is that not true? A-Well of course it is a question of circumstances,as I said before. As I said before there has been revelations,there has been additions that have been made,and in some cases of course all the world had to be taken into the church at once.

252 Q-In all of those cases the church law? A-Yes sir.

253 Q-That is your opinion I am trying to establish, is the church law? A-Yes sir,I think so.

254 Q-[illegible] I could not get your idea of understanding. Well, let me direct your attention to the church,universally,before you [illegible] of revelations,that the church could [illegible] by, that it was not presented to the church for adoption,-do you understand, of the church or [illegible] or [illegible], [illegible] or other,and x [illegible]

A-All of those,-all of the revelations that came before us [illegible] our conferences [illegible] twice a year. All the revelations of the church are presented to the church [illegible] of course [illegible] between x [illegible]

255 Q-You don't understand [illegible] do you? A-No sir, I don't understand.

256 Q-[illegible] or doctrine before [illegible] does do [illegible]? A-No sir,I don't.

257 Q-[illegible] or do you know? A-No sir.

258 Q-How long have you been a publication before Mr. Lockruf? A-I [illegible] it as soon as I [illegible] it.

259 Q-Is it not true that after [illegible] by the church as a [illegible], it must first be presented to the church for [illegible], and then that, of course [illegible] since the organization of the church? [illegible] or that possibly [illegible]? A-That can I [illegible] you in the first place,a great many things were done years before I was in the church,and all those early revelations were accepted by the people as given before they were ever presented to the church,but as to the matter of dividing these things up perhaps I am not qualified to say. You see in the earlier days I was not a member of the church,and I cannot say just as to how things were done then,but that is my understanding.

260 Q-I don't care anything about the division. What I am getting

al in the fact,and is it not true that before anything can be accepted as church law,it must first be presented to the church,and be accepted by the church? A-The church has accepted at all our conferences everything that has been brought before them,-it has accepted all that has been brought before them.

261 Q-And if the church refused to accept what was brought before them,-the revelation,then it would not be binding upon the church as church law? A-Well if the whole church rejected it it wouldn't.

262 Q-Well if the church to which it was presented at a general conference,that embraced a large part of the church, a majority of the church,should reject it,in that case it would not be binding upon the church as a law of the church? Is that not the fact Mr Yoodruff? A-So of course it would not. If it was rejected it would not be.

263 Q-Then the church has the right to reject or accept a revelation? Is that in the fact is it not? A-Yes sir,any man independent of the action of the church has the right to reject or accept it as he sees fit. That is a right that any man has.

264 Q-And a church has a right to say whether they will or will not be bound by it,-that whether they will accept or reject a revelation? A-Yes sir.

265 Q-Can any body make a revelation to the church without its consent? A-No sir.

266 Q-Does becoming an affiliate can be accepted by the church as a law to bind it,some law or other presented to the church,and accepted by the church,-accepted by the church,before it becomes a law binding on the church? Is that not true Mr Woodruff? A-No sir,-I think so.

267 Q-Has he been here now since the time you became connected with the church,as far as you can remember? A-Yes sir,so long as I have been with the church,that is the fact.

268 Q-Since you have been connected with the church that has been the rule that exists in it,-is that not the fact? A-I can't say what it was before I joined the church.-

269 Q-I don't care,and I am not asking you about what was the practice before you joined the church. I am only asking you about what has been the law,the rule and practice since you became connected with the church? A-Well there has been revelations received up to the people,-revelations as I said before,-revelations given to the prophet and received by the people,before they were received to the conference. Or that is the old rule of different notions you have of that rule,-you doubt that they have all been presented to the conference or assembly of the people and accepted by them. In the capacity we do that we believe they should be binding on the people,and I say that there have been revelations given to the prophet, but have been not given unless it be by the people before they were ever received to be binding in the conferences nor assemblies. Of course they have been made members to the conferences and accepted or rejected in the same manner.

270 Q-Did any of them prove contrary to some revelations that were accepted in what way? A-No sir.

271 Q-Now you were in Nauvoo in 1840 you say? A-Yes sir.

272 Q-You were? A-Yes sir,I was in Nauvoo in the spring of 1840. I was in Nauvoo at that time.

273 Q-All the revelations that were received up to 1840, up to 1841,were presented to the church in Nauvoo,Illinois,and by the church accepted were they not and afterwards

doctrine and covenants,were they not,and were published in that form by the church? A-Yes sir,but they were published before 1841.

274 Q-What were published before 1841? A-The revelations were.

275 Q-But I refer to the ones received between the time of the former publication and 1841,-between that time,and the time of the conference of 1841? A-I do not know. I cannot say as to that.

276 Q-You were a member of the church at that time? A-Yes sir,but I was not in Kirtland at that time. I was a broad during the greater portion a part of that period.

277 Q-Well I mean at Nauvoo,-I am not talkin about what took place at Kirtland,-I mean at Nauvoo? A-Well I was not at Nauvo either, Well yes I was too in Nauvoo in 1841,or for a period of time in 1841.

278 Q-Don't you remember the revelation of 1841 being presented to the church conference at Nauvoo in 1841? A-What is the date of it?

279 Q-It is what is called the revelation of '41,-January 19th 1841? A-Well sir,I could not tell you.

280 Q-It was on the building of the temple at Nauvoo,and the Nauvoo house,and such subjects as that? A-Yes sir.

~~281 Q-It is what is called the revelation of '41,-January 19th 1841? A-Well sir,I could not tell.~~

~~282 Q-It was on the building of the temple at Nauvoo and the Nauvoo house,and such subjects as that? A-Yes sir.~~

281 Q-And speaking with reference to the quorum of twelve,and such things as that? A-Yes sir.

282 Q-Was that was presented in 1841 to the conference,and accepted by the church was it not? A-I could not say,for I barely think I was at that conference.

283 Q-Well you'll pardon me for my questions to the revelation,-your self personally,was opposed to the revelation, A-Well I was not opposed exactly to the revelation,but I was not myself personally, for I was a long way from Nauvoo at that time. I was two thousand miles from Nauvoo at that time.

284 Q-Did you in 1842? A-Well when that revelation was given it was back '41.

285 Q-No sir it was not. It was from the 19th of January 1841,-that is the date it was given. You were there at the April Conference of '42? A-I would like to look at the book before I answer it.

Counsel for plaintiff hands witness the book of doctrine and covenants.

286 Q-And is that not an all subsequent editions of the book of doctrine and covenants after 1842? A-No sir I do not think I was present at that conference,but of course the authorities of the church,- all of them,-I think were present in this revelation,and I was called to this office before this revelation was given.

287 Q-You say you were called to that office before the revelation was given? A-Yes sir.

~~288 Q-Where were you at the time that revelation was given? A-I could not tell where I was without referring to my records or journal,but it seems from my memory now as to me that I was at that conference.~~

288 Q-Well you recognize this as one of the revelations accepted by the church? A-Yes sir I do.

290 Q-And it was accepted by the church prior to 1844,-accepted before that time was it not? A-Yes sir.

291 Q-Now Mr Woodruff I want to call your attention to section one hundred and twenty four in this book of doctrine and covenants, Exhibit A,being the edition of 1890,on page four hundred and eighty nine,the same being the edition published by the Utah Mormon church,and to save time,for I presume you are familiar with them,

I will not ask you to read them or the others to which I will call your attention, and will ask that the reporter extend in this transcript [illegible] of your evidence [illegible] the [illegible] in [illegible] the evidence if [illegible] will,—"I have no objection to its going in the record".

[illegible] no objection to [illegible], the following copy of the section referred to in the question, to wit,-

Section 124.

Revelation given to Joseph Smith, at Nauvoo, Hancock County, Illinois, January 19th, 1841.,

I Verily, thus saith the Lord, unto you, my servant Joseph Smith, I am well pleased with your offering and acknowledgments, which you have made, for unto this end, have I raised you up, that I might show forth my wisdom through the weak things of the earth.

[illegible] Your prayers are acceptable before me, and in answer to them I say unto you, that you are now called immediately to make a solemn proclamation of my gospel, and of this stake which I have planted to be a corner stone of Zion, which shall be polished with the refinement which is after the similitude of a palace.

[illegible] This proclamation shall be made to all the kings of the world,—to the four corners thereof,—to the honorable president-elect, and the high-minded governors of the nation in which you live, and to all the nations of the earth scattered abroad.

[illegible] Let it be written in the spirit of meekness and by the power of the Holy Ghost, which shall be in you at the time of the writing of the same;

[illegible] For it shall be given you by the Holy Ghost to know my will concerning those kings and authorities, even what shall befall them in a time to come.

[illegible] For behold, I am about to call upon them to give heed to the light and glory of Zion, for the set time has come to favor her.

7 Call ye, therefore, upon them with loud proclamation, and with your testimony, fearing them not, for they are as grass; and all their glory as the flower thereof which soon falleth, that they may be left also without excuse.

[illegible] And that I may visit them in the day of visitation, when I shall unveil the face of my covering, to appoint the portion of the oppressor among hypocrites, where there is gnashing of teeth, if they reject my servants and my testimony which I have revealed unto them.

9 And again, I will visit and soften their hearts, many of them for your good, that ye may find grace in their eyes, that they may come to the light of truth, and the Gentiles to the exaltation or lifting up of Zion.

10 For the day of my visitation cometh speedily, in an hour when ye think not of, and where shall be the safety of my people, and refuge for those who shall be left of them.

11

11 Awake, O ye kings of earth. Come ye, O come ye, with your gold and your silver, to the help of my people, to the house of the daughters of Zion.

12 And again, verily I say unto you, let my servant Robert B. Thompson help you to write this proclamation, for I am well pleased with him, and that he should be with you.

13 Let him therefore hearken unto your counsel, and I will bless him with a multiplicity of blessings; let him be faithful and true in all things from henceforth, and he shall be great in mine eyes.

14 But let him remember that his stewardship will I require at his hands.

15 And again, verily I say unto you blessed is my servant

[illegible]

16 And [illegible] John C. [illegible], [illegible] in [illegible] the lives of the people of [illegible] Joseph Smith, [illegible] Amen.

17 And for his love he shall be [illegible], for he shall be [illegible] if he [illegible] love. I have [illegible] word [illegible] which he [illegible], which I record, if he could [illegible] all.

18 And again I say unto you, that if [illegible] that my [illegible] shall continue [illegible] for ever, in [illegible] of [illegible] complete [illegible] the world, and I [illegible] joy and [illegible].

19 [illegible] receive [illegible] in [illegible] Joseph Smith [illegible] blessed [illegible] for [illegible].

20 [illegible] John [illegible] George [illegible] time for [illegible] which he has to my [illegible] I, the Lord, love him.

21 I therefore say unto you, I send you this [illegible] office of bishop, [illegible] unto my servant George, for [illegible] consecrations of the poor, that he may receive his [illegible] lowliness upon the poor of my people [illegible] the Lord. Let no man [illegible] unto my servant George, for [illegible].

22 [illegible] and my servants [illegible], such [illegible] shall be [illegible].

23 And I shall be for a [illegible] for honest [illegible] that [illegible] to look therein; therefore, let [illegible] time [illegible], and [illegible] shall contemplate [illegible] the Lord; and he comes, [illegible].

24 This house shall be a [illegible] habitation [illegible] and it shall not suffer any [illegible] to come upon it. It shall be holy, or the Lord [illegible] will not dwell therein.

25 And [illegible], I say unto you, if my servants all my [illegible] come [illegible].

26 And [illegible] swift messengers, yea, [illegible] messengers, and [illegible]; come ye, with all your [illegible], and your silver, and your precious stones, and with all your antiquities; and [illegible] all who have [illegible] of antiquities that will come, [illegible] box trees, and the fir trees, and the pine trees, together with all the precious trees of the earth.

27 And with [illegible] iron, with copper and with brass, and with zinc, and with all your precious things of the earth, and build a house to my name for the Most High to dwell therein;

28 For there is not a place found on earth that he may come and rest [illegible] again that which was lost unto him you, or which he hath taken away, even the fulness of the priesthood;

29 For a baptismal font there is not upon the earth, that they, my saints, may be baptised for those who are dead.

30 For this ordinance belongeth to my house, and cannot be acceptable to me, only in the days of your poverty, wherein ye

31 But I command you,all ye,my saints,to build a house unto me; and I grant you a sufficient time to build a house unto me,and during this time,your baptism shall be acceptable unto me.

32 But behold at the end of this appointment, your baptism for your dead shall not be acceptable unto me;ye shall be rejected as a church,with your dead,saith the Lord your God.
33 For verily I say unto you,that after you have had sufficient time to build a house unto me,wherein the ordinance of baptizing for the dead belongeth,and for which the same was instituted from before the foundation of the world,your baptism for your dead,cannot be acceptable unto me.
34 For therein are the keys of the holy priesthood ordained that you may receive honor and glory.
35 And after this time,your baptisms for the dead,by those who are scattered abroad are not acceptable unto me, saith the Lord.
36 For it is ordained that in Zion,and in her stakes,and in Jerusalem those places which I have appointed for refuge, shall be the places for your baptisims for your dead.
37 And again, verily I say unto you,how shall your washings be acceptable unto me,accept ye perform them in a house which you have built to my name?
38 For,for this cause I commanded Moses,that he should build a tabernacle,that they should bear it with them in the wilderness,and to build a house in the land of promise,that those ordinances might be revealed,which had been hid from before the world was;
39 Therefore,verily I say unto you,that your annointings, and your washings,and your baptisims for the dead,and your solemn assemblies,and your memorials for your sacrifices,by the sons of Levi,and for your oracles in your most holy places wherein you receive conversations,and your statues and judgements,for the beginning of the revelations,and foundation of Zion,and for the glory,honor and endowment of all her municipals,are ordained by the ordinance of my holy house which my people are always commanded to build unto my holy name.
40 And verily I say unto you,Let this house be built unto my name,that I may reveal mine ordinances therein,unto my people;
41 For I deign to reveal unto my church,things which have been kept hid from before the foundation of the world,things which pertain to the dispensation of the fulness of times.
42 And I will show unto my servant Joseph all these things pertaining to this house,and the Priesthood thereof;and the place whereon it shall be built;
43 And ye shall be build it on the place where you have contemplated building it,for that is the spot which I have chosen for you to build it.
44 And if ye labor with all your might,I will consecrate this spot that it shall be made holy;
45 And if my people will hearken unto my voice,and unto the voice of my servants whom I have appointed to lead my people,behold,verily,I say unto you,they shall not be moved out of their place.
46 But if they will not hearken unto my voice,nor unto the voice of those men whom I have appointed,they shall not be blest,because they pollute mine holy grounds,and mine holy ordinances and charters,and my holy words,which I give unto them.
47 And it shall come to pass,that if you build a house unto my name,and do not do the things that I say,I will not perform the oath which I make unto you,neither fulfill the promises which ye expect at my hands,saith the Lord.

48 For instance of blessings,ye,by your own works,bring cursings,wrath and indignation,and judgements upon your own heads,by your follies,and by all your abominations,which you practice before me,saith the Lord.
49 Verily,verily,I say unto you,that when I give a comman-dment to any of the sons of men,to do a work unto my name, and those sons of men go with all their might,and with all they have,to perform the work,and cease not their diligence, and their enemies come upon them,and hinderx them from performing that work;behold,it behooveth me to require that work no more at the hands of those sons of men,but to accept of their offerings;
50 And the iniquity and transgression of my holy laws and commandments,I will visit upon the heads of those who hindered my work,unto the third and fourth generation,so long as they repent not,and hate me saith the Lord,God.
51 Therefore for this cause,have I accepted the offerings of those whom I commanded to build up a city,and a house unto my name in Jackson County,Missouri,and were hindered by their enemies,saith the Lord your God;
52 And I will answer judgement,wrath and indignation, wailing and anguish,and gnashing of teeth upon their heads, unto the third and fourth generation,so long as they repent not,and hate me,saith the Lord,your God.
53 And this I make an example unto you,for your consolation,concerning all those who have been commanded to do work and have been hindered by the hands of their enemies,and by oppression saith the Lord your God.
54 For I am the Lord your God,and will save all those of your brethren who have been pure in heart,and have been slain in the land of Missouri,saith the Lord.
55 And again,verily I say unto you,I command you again to build a house unto my name,even in this place,that you may prove your selves unto me that ye are faithful in all things, whatsoever I command you,that I may bless you and crown you with honor,immortality and eternal life.
56 And now I say unto you as pertaining to my boarding house which I have commanded you to build for the boarding of strangers,let it be built unto my name,and let my name be named upon it,and let my servant Joseph and his house have placed therein,from generation to generation;
57 For this annointing have I put upon his head,that his blessing shall also be put upon the head of his posterity after him.
58 And as I said unto Abraham concerning the kindreds of the earth,even so I say unto my servant Joseph,thee shee and in thy seed shall the kindred of the earth be blessed.
59 Therefore let my servant Joseph and his seed after him,have place in that house,from generation to generation, for ever an ever,saith the Lord.
60 And let the name of that house be called Nauvoo house, and let it be a delightful habitation for man,and a resting place for the weary traveler,that he may contemplate the glory of Zion,and the glory of this the corner stone therof;
61 That he may receive also the counsel from those I have set to be as plants of renown,and as watchman upon her walls.
62 Behold,verily I say unto you,let my servant George Miller,and my servant Lyman Wight,and my servant John Snider, and my servant Peter Haws,organize themselves,and appoint one of them to be a President over their quorom,for the purpose of building that house.

63 And they shall form a constitution whereby they may receive stock for the building of that house.
64 And they shall not receive less than fifty dollars for a share of stock in that house,and they shall be permitted to receive fifteen thousand dollars from any man for stock in that house;
65 But they shall not be permitted to receive over fifteen thousand dollars stock from one man.
66 And they shall not be permitted to receive under fifty dollars for a share of stock from any one man in that house.
67 And they shall not be permitted to receive any man as a stockholder in this house,except the same shall pay his stock into their hands at the time he receives stock;
68 And in proportion to the amount of stock he pays into their hands he shall receive stock in that house;but if he pays nothing into their hands,he shall not receive any stock in that house.
69 And if any pay stock into their hands,it shall be for stock in that house,for himself,and for his generation after him,from generation so generation,so long as his heirs shall hold that stock,and do not sell or convey the stock away out of their hands by their own free will and act,if you will do my will,saith the Lord your God.
70 And again,verily I say unto you,if my servant George Miller,and my servant Lyman Wight,and my servant John Snider and my servant Peter Haws,receive any stock into their hands, in moneys or in properties,wherein they receive the real value of moneys,they shall not appropriate any of that stock to any other purpose,only in that house,
71 And if they do appropriate any ~~of that money~~ portion of that stock any where else,only in that house without the consent of the stockholder,and do not pay four fold for the stock which they appropriate any where else only in that house,they shall be accursed,and shall be moved out of their place,saith the Lord God,for I,the Lord,am God,and cannot be mocked in any of these things,
72 Verily I say unto you,let my servant Joseph,pay stock into their hands for the building of that house,as seemeth him good;but my servant Joseph cannot pay over fifteen thousand dollars;neither can any other man,saith the Lord.
73 And there are others also that wish to know my will concerning them,for they have asked it at my hands.
74 Therefore I say unto you,concerning my servant Vinson Knight,if he will do my will,let him put stock into that house for himself,and for his generation after him,from generation to generation.
75 And let him lift up his voice long and loud,in the midst of the people to plead the cause of the poor and needy, and let him not fall,neither his heart faint,and I will accep of his offerings,for they shall be unto me as the offerings of Cain,for he shall be mine,saith the Lord.
76 Let his family rejoice,and turn away from their hearts from affliction for I have chosen him,and anointed him,and he shall be honored in the midst of his house,for I will forgive all his sins,saith the Lord, Amen.
77 Verily I say unto you,let my servant Hyrum put stock into that house as seemeth him good,for himself and his generation after him,from generation to generation.
78 Let my servant Isaac Galland put stock into that house for I,the Lord,love him,for the work he hath done,and will forgive all his sins,therefore let him be remembered for an interest in that house from generation to generation.
79 Let my servant Isaac Galland be appointed among you, and be ordained by my servant William Marks,and be blessed of him,to go with my

servant Hyrum,to accomplish the work that my servant Joseph shall point out to them,and they shall be greatly blessed.
80 Let my servant William Marks pay stock into that house as it seemeth him good,for himself and his generation,from generation to generation.
81 Let my servant Henry G.Sherwood pay stock into that house,as it seemeth him good for himself and his seed after him,from generation to generation.
82 Let my servant William law pay stock into that house, for himself and his seed after him,from generation to generation.
83 If he will do my will,let him take his family unto the eastern lands,even unto Kirtland;nevertheless,I,the Lord,will build up Kirtland,but I the Lord,have a scourge prepared for the inhabitants thereof.
84 And with my servant Almon Babbitt,there are many things with which I am not well pleased;because he aspireth to establish his counsel instead of the counsel I have ordained, even the Presidency of my church,and he setteth up a golden calf for the worship of my people.
85 Let no man go from this place,who has come here essaying to keep my commandments.
86 If they live here let them live unto me;and if they die,let them die unto me;for they shall rest from all their labors here,and shall continue their works.
87 Therefore,let my servant William put his trust in me, and cease to fear concerning his family,because of the sickness in the land. If ye love me,keep my commandments,and the sickness of the land shall redound to your glory.
88 Let my servant William go and proclaim my everlasting gospel with a loud voice,and with great joy,as he shall be moved upon by my spirit unto the inhabitants of Warsaw and also unto the inhabitants of Carthage,and also unto the inhabitants of Burlington, and also unto the inhabitants of Madison,and await patiently and diligently for further instructions at my general conference,saith the Lord.
89 If he will do my will,let him from henceforth hearken to the counsel of my servant Joseph,and with his interest support the cause of the poor,and publish the new translation of my holy word unto the inhabitants of the earth.
90 And if he will do this I will bless him with a multiplicity of blessings,that he shall not be forsaken,nor his seed be found begging bread.
91 And again,verily I say unto you,Let my servant William be appointed,ordained,and annointed as a counsellor unto my servant Joseph,in the room of my servant Hyrum,that my servant Hyrum may take the office of Priesthood and Patriarch, which was appointed unto him by his father by blessing and also by right.
92 That from henceforth he shall hold the keys of the patriarchal blessings upon the heads of all my people.
93 That whoever he blesses shall be blessed,and whoever he curses shall be cursed;that what-so-ever he shall bind on earth shall be bound in heaven;and what-so-ever he shall loose on earth,shall be loosed in heaven;
94 And from this time forth I appoint unto him that he may be a prophet and a seer,and a revelator unto my church,as well as my servant Joseph.
95 That he may act in concert also with my servant Joseph and that he shall receive counsel from my servant Joseph,who shall show unto him the keys whereby he may ask and receive, and be crowned with the

same blessing,and glory,and honor,and Priesthood,and gifts of the Priesthood,that once were put upon him that was my servant Olivery Cowdery.

96 That my servant Hyrum may bear the record of the things which I shall show unto him,that his name may be had in honorable remembrance from generation to generation,for ever and ever.

97 Let my servant William Law also receive the keys by which he may ask and receive blessings:let him be humble before me,and be without guile,and he shall receive of my spirit,even the Comforter,which shall manifest unto him the truth of all things,and shall give him in the very hour,what he shall say.

98 And these things shall follow him;he shall heal the sick,he shall cast out devils,and shall be delivered from those who would administer unto him deadly ~~xxx~~ poison;

99 And he shall be led in paths where the poisonious serpent cannot lay hold on his heel,and he shall mount up in the imagination of his thoughts as upon eagles wings.

100 And what if I will that he should raise the dead,let him not withhold his voice.

101 Therefore let my servant William cry aloud and spare not,with joy and rejoicing,and with hossannas to him that sitteth upon the throne for ever and ever,saith the Lord your God.

102 Behold I say unto you I have a mission in store for my servant William,and my servant Hyrum,and for them alone;and let my servant Joseph tarry at home,for he is needed;the remainder I will show unto you hereafter,Even so Amen.

103 And again,verily I say unto you if my servant Sidney will serve me and be counsellor ~~xx~~ unto my servant ~~Joseph~~ Joseph,let him arise and come up and stand in the office of his calling,and humble himself before me;

104 And if he will offer unto me an acceptable offering, and acknowledgements,and remain with my people,behold I,the Lord,your God,will heal him that he shall be healed;and he shall lift up his voice again on the mountains,and be a spokesman before my face.

105 Let him come and locate his family in the neighborhood in which my servant resides.

106 And in all his journeyings let him lift up his voice, as with the sound of a trump,and warn the inhabitants of the earth to flee the wrath to come;

107 Let him assist my servant Joseph;and also let my servant William Law assist my servant Joseph,in making a solemn proclamation unto the kings of the earth,even as I have said before unto ~~him~~ you.

108 If my servant Sidney will do my will,let him not remove his family into eastern lands,but let him change their habitation,even as I have said.

109 Behold it is not my will that he shall seek to find safety and refuge out of the city which I have appointed unto ~~him~~ x you,even the city of Nauvoo.

110 Verily I say unto you,even now,if he will hearken to my voice,it shall be well with him. Even so. Amen.

111 And again,verily I say unto you,let my servant Amos Davies pay stock into the hands of those whom I have appointed to build a house for boarding,even the Nauvoo house;

112 This let him do if he will have an interest,and let him hearken unto the counsel of my servant Joseph,and labor with his own hands that he may obtain the confidence of men;

113 And when he shall prove himself faithful in all things that shall be entrusted to his care,yea,even a few things,he shall be made ruler over many.

114 Let him therefore abase himself that he may be exalted. Even so. Amen.
115 And again,verily I say unto you,if my servant Robert D. Foster will obey my voice,let him build a house for my servant Joseph,according to the contract which he has made with him,as the door shall be open to him from time to time.
116 And let him repent of all his folly,and clothe himself with charity,and cease to do evil,and lay aside all his hard speeches.
117 And pay stock also into the hands of the quorom of the Nauvoo house for himself and for his generation after him, from generation to generation.
118 And hearken unto the counsel of my servants Joseph and Hyrum and William Law,and unto the authorities which I have called to lay the foundation of Zion,and it shall be well with him for ever,and ever. Even so. Amen.
119 And again,verily I say unto you,Let no man pay stock to the quorom of the Nauvoo house,unless he shall be a believ-er in the book of Mormon,and the revelations I have given unto you,saith the Lord your God.
120 For that which is more or less than this cometh of evil,and shall be attended with cursings and not blessings, saith the Lord your God. Even so. Amen.
121 And again, verily I say unto you,let the quorom of the Nauvoo house,give a just recompense for of wages for all their labors,which they do in building the Nauvoo House,and let their wages be as shall be agreed among themselves,as pertaining to the price thereof;
122 And let every man that pays stock bear his proportion of their wages,and if it must needs be,for their support, saith the Lord;otherwise their labors shall be accounted unto them for stock in that house. Even so Amen.
123 Verily I say unto you,I now give unto you the efficers belonging to my Priesthood that ye may hold the keys thereof, even the Priesthood which is after the order of Melchesedek, which is after the order of My Only Begotten Son.
124 First I give unto you Hyrum Smith,to be a patriarch unto you,to hold the sealing blessings of my church,even the Holy Spirit of promise whereby ye are sealed up unto the day of redemption,that ye may not fall,notwithstanding standing the hour of temptation shall come upon you.
125 I give unto you my servant Joseph,to be a presiding elder over all the church,to be a translator,a revelator,a seer,and prophet.
126 I give unto him for counsellors my servants Sidney Rigdon,and my servant William Law,that these may constitute a quorom and First Presidency,to receive the oracles of the whole church.
127 I give unto you my servant Brigham Young,to be a President over the Twelve traveling Council,
128 Which twelve hold the keys to open up the authority of my kingdom upon the four corners of the earth,and after that to send my word to every creature;
129 They are,-Heber C.Kimball;Parley P. Pratt,Orson Pratt, Orson Hyde,William Smith,John Taylor,John E.Page,Wilford Woodruf,Willard Richards,George A.Smith;
130 David Patten I have taken unto myself;behold,his priesthood no man taketh from him;but verily I say unto you, another may be appointed unto the same calling.
131 And again I say unto you,I give unto you a High Council,for the corner stone of Zion.
132 Viz,Samuel Bent,H.G. Sherwood,George W.Harris,Charles C.Rich,

Thomas Grover,Newel Knight,David Dort ,Dunbar Wilson;(Seymour Brunson,I have taken unto my self,no man taketh his Priesthood,but another may be appointed into the same priesthood in his stead and verily I say unto you,let my servant Aaron John son be ordained unto the calling in his stead;)David Fullser, Alpheus Cutler,William Huntington,

133 And again,I say unto you Don C. Smith,to be a President over a quorom of High priests;

134 Which ordinance is instituted for the purpose of qualifying those who shall be appointed standing Presidents or servants over different stakes scattered abroad.

135 And they may travel also if they choose,but rather be ordained for standing presidents,this is the office of their calling,saith the Lord your God.

136 And I give unto him Amasa Lyman,and Noah Packard for counsellors,that they may preside over the quorom of High priests for the church,saith the Lord.

137 And again,I say unto you,I give unto you John A.Hicks, Samuel Williams and Jesse Baker,which Priesthood it to preside over the quorom of elders,which quorom is instituted for standing ministers,nevertheless they may travel,yet they are ordained to be standing ministers to my church,saith the Lord.

138 And again I say unto you Joseph Young,Josiah Butterfield,Daniel Miles,Henry Herrisan,Zera Pulsipher,Levi Hancock James Foster,to preside over the quorom of seventies.

139 Which quorom is instituted for traveling elders to bear record of my name in all the world,whenever the traveling High Council,my apostles shall send them to prepare a way before my face.

140 The difference between this quorom and the quorom of elders is,that one is to travel continually,and the other is to preside over the churches from time to time;the one has the responsibility of presiding from time to time,and the other has no responsibility of presiding. saith the Lord your God.

141 And again I say unto you,I give unto you Vinson Knight ,Samuel H. Smith,and Shagrach Roundy,if he will receive it, to preside over the bishopric; a knowledge of said bishopric is given unto you in the book of doctrine and covenants.

142 And again I say unto you,Samuel Rolfe and his counsellors for priests,and the president of the teachers and his counsellors,and also the president of the stake and his counselors;

143 The above officers I have given unto you,and the keys thereof,for helps and for governments,for the work of the ministry,and the perfecting of my saints.

144 And a commandment I give unto you that you should fill all these offices and approve of those names which I have mentioned,or else disapprove of them at my general conference,

145 And that ye should prepare rooms for all these officers in my house then you shall build it unto my name,saith the Lord your God,Even so. Amen".

292 Q-I want to next call to your attention section one hundred and two of Exhibit A,being the revelation given on Fishing River, Missouri,June 22nd 1834,on page three hundred and seventy seven of Exhibit A,-is in section one hundred and seventy five instead of one hundred and two?

The revelation above referred to is in words and figures as follows,to wit,-

Section 105.

Revelation given through Joseph Smith the seer,on Fishing River,Missouri.

June 22nd,1834.,

1 Verily I say unto you who have assembled yourselves together that you may learn my will concerning the redemption of mine afflicted people.

2 Behold,I say unto you,were it not for the trandgressions of my people,speaking concerning the church, and not individuals,they might have been redeemed even now;

3 but behold,they have not learned to be obedient to the things which I require at their hands,but are full of all manner of evil,and do not impart of their substance as becometh saints,to the poor and afflicted among them.

4 And are not united according to the union required by the law of the celestial kingdom.

5 And Zion cannot be built up unless it is by the prindiples of the law of the celestial kingdom,otherwise I cannot receive her unto myself.

6 And my people must needs be chastened until they learn obedience,if it must needs be,by the things which they suffer

7 I speak not concerning those who are appointed to lead my people who are the first elders of the church,for they are not all under this condemnation;

8 But I speak concerning my churches abroad,-there are many who will say,where is their God? Behold,he will deliver them in time of trouble,otherwise we will not go up into Zion,and we will keep our moneys .

9 Therefore in consequence of the transgressions of my people,it is expedient in me that mine elders should wait for a little season for the redemption of Zion.

10 That they themselves may be prepared,and that my people may be taught more perfectly,and have experience,and know more perfectly concerning their duty,and the things which I require at their hands.

11 And this cannot be brought to pass until mine elders are endowed with powers from on High;

12 For behold I have prepared a great endowment and blessing to be poured out upon them, inasmuch as they are faithful and continue in humility before me;

13 Therefore,it is expedient in me that mine elders should wait for a little season,for the redemption of Zion.

14 For behold,I do not require at their hands to fight the battles of Zion;for as I said in a former commandment,even so will I fulfill. I will fight your battles.

15 Behold,the destroyer I have set forth to destroy and lay waste mine enemies;and not many years hence they shall not be left to pollute mine inheritage,and to blaspheme my name upon the lands which I have consecrated for the gathering together of my saints.

16 Behold I have commanded my servant Baurak Ale(Joseph Smith Jr.,) to say unto the strength of my house,even my warriors,my young men,and middle aged,to gather to gather for the redemp ion of Zion my people,and throw down the towers of mine enemies,and scatter their watchman;

17 But the strength of mine house have not hearkened unto my words;

18 But inasmuch as there are those who have hearkened unto my words I have prepared a blessing and an endowment for them if they continue faithful.

19 I have heard their prayers,and will accept their offering;and it is expedient in me,that they should be brought thus far for a trial of their faith.

20 And now,verily I say unto you,a commandment I give unto you,that as many as have come up hither,that can stay in the region round about let them stay;

21 For those that cannot stay,who have families in the east let them

tary for a little season,inasmuch as my servant Joseph Smith shall appoint unto them;
22 For I will counsel him concerning this matter,and all things whatsoever he shall appoint unto them shall be fulfilled.
23 And let all my people who dwell in the regions round about be very faithful,and prayerful,and humbled before me,and reveal not the things which I have revealed unto them,until it is wisdom in me that they should be revealed.
24 Talk not of judgement,neither boast of faith,nor of mighty works,but carefully gather together,as much in one region as can be consistently with the feelings of the people.
25 And behold I will give unto you favor and grace in their eyes,that you may rest in peace and safety,while you are saying unto the people Execute judgement and justice for us according to law,and redress us of our wrongs.
26 Now behold,I say unto you my friends,in this way you may find favor in the eyes of the people,until the army of Israel becomes very great;
27 I will soften the hearts of people,as I did the heart of Pharaoh from time to time,until my servant Baurak Ale(Joseph Smith Jr)and Sancony(mine elders)whom I have appointed, shall have time to gather up the strength of my house.
28 And to have sent wise men to fulfill that which I have commanded concerning the purchasing of all the lands in Jackson County,that can be purchased,and in the adjoining Counties round about,
29 For it is my will that these lands should be purchased, and after they are purchased that my saints should possess them according to the laws of consecration which I have given
30 And after these lands are purchased I will hold the armies of Israel guiltless in taking possession of their own lands,which they have previously purchased with their own moneys,and of throwing down the towers of mine enemies that may be upon them,and scattering their watchman,and avenging me of mine enemies unto the third and fourth generation of them that hate me.
31 But firstly let my army become very great,and let it be sanctified before me that it may become fair as the sun and clear as the moon,and that her banners may be terrible to all nations;
32 That the kingdom of this world may be constrained to acknowledge is in very deed the kingdom of our God and his Christ;therefore let us become subject unto her laws.
33 Verily I say unto you it is expedient in me that the first elders in my church should receive their endowment from on high in my house,which I have commanded to be built unto my name in the land of Kirtland;
34 And let those commandments which I have given concerning Zion and her law be executed and fulfilled,after her redemption.
35 There has been a day of calling,but the time has come for a day of choosing,and let those be chosen that are worthy.
36 And it shall be manifest unto my servant by the voice of the Spirit,those that are chosen,and they shall be sanctified,
37 And inasmuch as they follow the counsel which they shall receive,they shall have power after many days to accomplish all things pertaining to Zion.
38 And again I say unto you sue for peace,not only the people that have smitten you,but also to all people;
39 And lift up an ensign of peace,and make a proclamation of peace unto the ends of the earth.
40 And make proposals for peace unto those who have smitten you,according

to the voice of the Spirit which is in you,and all things shall work together for your good;
41 Therefore, be faithful,and behold,and lo,I am with you, even to the end. Even so. Amen."

293 Q-Were you present when that revelation was given? A-I was.
294 Q-And you recognize that as being the law of the church,and adopted by the church? A-Yes sir.
295 Q-That was adopted prior to 1844 was it not? A-That was,what?
296 Q-That was adopted,and was the law of the church prior to 1844 was it not,-that revelation I mean that was given on Fishing River? A-Yes sir.
297 Q-I wish to call your attention now to section one hundred and six of Exhibit A,being the revelation given at Far West,Missouri, July 8th 1838,on tithing , I have made a mistake for the section I refer to is section one hundred and nineteen in Exhibit A,on page four hundred and eighteen. The sections are not numbered the same in these books,and that is the cause of this confusion? A-The sections as far as their numbering goes do not change I think in any book.
298 Q-Well they do not come in the same place,-they are different here. The revelation I refer to is the revelation given at Far West, Missouri,on July 8th 1838 on the question of tithing and surplus property?

The revelation referred to is in the words and figures ~~xxfollows~~ following,to wit,-

Section 119

Revelation given through Joseph the Prophet,at Far West,Missouri.,July 8th 1838,in answer to the question,O Lord,show unto thy servants how much thou requirest of the properties of the people for a tithing?
1 Verily thus saith the Lord,I require all their surplus property to be put in the hands of the bishop of my church of Zion.
2 For the building of mine house,and for the laying of the foundation of Zion,and for the priesthood,and for the debts of the Presidency of my church.
3 And this shall be the beginning of the tithing of my people.
4 And after that,those that have been tithed,shall pay one tenth of their interest annually;and this shall be a standing law unto them for ever,for my holy priesthood,saith the Lord.
5 Verily,I say unto you,it shall come to pass that all those who gather to the land of Zion shall be tithed of their surplus properties,and shall observe this law,or they shall not be found worthy to abide among you.
6 And I say unto you,if my people observe not this law,to keep it holy,and by this law sanctify the land of Zion unto me that my statues and judgements shall be kept thereon,that it may be most holy,behold verily I say unto you,it shall not be a land of Zion unto you;
7 And this shall be an ensample ~~in xix the~~ unto all the stakes of Zion. Even so Amen.

299 Q-Do you recollect that revelation? A-I recollect reading it in the book of doctrine and covenants,
300 Q-That was a part of the church law prior to 1844? A-I suppose so
301 Q-It was recognized and adopted by the church was it not? A-I think so.
302 Q-You stated in your examination in chief the other day Mr Woodruf that the church practiced the ordinance of baptism for the dead in Nauvoo,before the death of Joseph Smith? A-Yes sir.
303 Q-In what years was that practiced,that ordinance of baptism

for the dead? A-Well I think in '41,-I think it commenced in '41,-'41or ~~xx~~ '2. I couldn't say when,but it was either '41 or '42.

304 Q-Do you remember the revelation,-the order rather that stopped the practice of it prior to the death of Joseph Smith? ~~A-Th~~ A-There was no order that ever I knew anything about to stop the practice. Nothing of the kind that I ever heard anything about,and it was continued up to the time of his death I think so far as there was opportunity or occasion to practice it.

305 Q-Well was there not an order given through the prophet Joseph Smith,stopping the ordinance of baptism for the dead until after the ~~xxxxxxxx~~ completion of the temple there at Nauvoo? A-Not that I remember of. The first baptism that was done in the church there,Joseph Smith himself went into the Mississippi river and baptized one hundred one evening,and there was a number of others that baptized quite a number,and not having a recorder to keep a record of these things,he ordered the records,of everything,and that was the commencement of it,but after that they had a font.

306 Q-Well now after the baptism there in the Mississippi river by Joseph Smith,that to the effect that that ceremony,-baptism for the dead,-should cease,until the completion of the temple? A-Well I don't recollect it sir.

307 Q-Do you say you don't recollect anything about it? A-If there was such out order or direction issued I do not recollect it.

308 Q-Would you say there was not? A-No sir,I would not say that. I would not say there was not,for the reason that I don't remember whether there was or not.

309 Q-If there was such an order given through the prophet Joseph Smith,that would be the law of the church,then wouldn't it? A-Well of course it would have been carried out I suppose,but I have no recollection of an order of that kind being given, for I remember that baptism for the dead was carried on there up to the time that Joseph died.

310 Q-Do you recollect any baptism for the dead after 1844? A-There?

311 Q-Do you recollect any ceremony of baptism for the dead in Nauvoo after the year 1844? ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ A-Yes sir. During the year 1844?

312 Q-Yes sir,during the year 1844? A-I do not recollect now, I do not recollect any special occurrence of that kind,but I supposed they always baptized for the dead there in the font as long as they had a chance. Now that is my view to it,but I don't remember any particular instance where it was done,but I suppose they did.

313 Q-You say that is your view of it? A-Yes sir.

314 Q-That is your view of it,but you don't know that they did it? A-Well I will tell you just this much. I can't tell the date of it,but I baptized men in the font myself,and saw others do the same thing before we left there,but as to the dates of course I could not say without referring to my minutes.

315 Q-You say that was done in the font there? A-Yes sir.

316 Q-Well the font was not ready in 1843 was it,-is it not a fact Mr Woodruff that the font was not ready in 1843 for baptisms? A-I don't know sir. History of course will give an account of that. I know the fact sir,but as to the date I could not say from memory. Now if you gentlemen have any interest in searching those principles and particulars out,those last letters that Joseph Smith wrote just prior to his death,-these two last letters dwelt extensively on the question of these ordinances,the ordinance of baptism for the dead,etc.but with regard to days and dates, I can

not say for the reason that I cannot remember. I do not mean to say that I can't remember anything about it for that is not the fact. The principle I remember all right,but I cannot remember days and dates.

By Mr Kelley,-"In their(the Utah branch of the Mormon church)they have subdivided their paragrapgs so that it is difficult to find what a fellow wants to find. I have been referring to some things that I want in this book,Exhibit A,and find that the sections and paragrapgs are numbered differently from that they are in Exhibit J,-it is here all the same,but it is arranged and numbered differently,-that is all the difference. They are subdivided in this book(Exhibit A)by Orson Pratt.

By Mr Grill,-"Is that the same book?

By Mr Kelley.-"No sir it is not the same book,but it is one of the same editions that has been put in evidence. It is a copy of the same book that has been identified in evidence here to fore".

By the witness,-"Of course it makes no difference in the facts how it is arranged there,if they got it all there,and in the same manner as to composition as it appears in the original edition. It makes no difference what book it is from if it is all the same".

At this point in the examination of this witness,the further taking of his testimony was continued until the hour of 1,30P.M.

Cross examination continued by Mr P.P. Kelley,-

317 Q-The letters you spoke of in the last preceding interrogatory were written in 1842,were they not? A-I do not know,

318 Q-Well that is your best recollection as to that? A-I could not say with any degree of certainty when it was,I would have to see them in the book_s to tell. I cannot remember when they were written but they are in the books and the books of course speak for themselves.

319 Q-Are you sure they are there? A-Yes sir,I am pretty sure they are,-at least I think they are if I am not greatly mistaken, you say they were written in '42,but it appears to me they were later than that,however,I don't know.

320 Q-The dates in the book are September first '42 and September 6th'42? A-Well they are in the last parts of the books,and I thought they must be later than that. They are speaking of the baptism for the dead,and doctrines like that kind.

321 Q-I will ask you if those are the two letters you refer to,the one on page two hundred and twenty of the book of doctrine and covenants,section one hundred and nineteen,-it is page four hundred and forty eight,sections one hundred and twenty seven and one hundred and twenty eight in Exhibit A,-here it is Mr Goodrich in one of your own publications(handing the witness Exhibit A)probably you can tell better by that than the other book? A-(witness examines the section referred to,and says)it is in sections one hundred and twenty seven and eight that I was alluding to. Those are the letters.

322 Q-Now what are the dates of those letters? A-Well the revelation I referred to is the one here where he is treating of the redemption of the dead,and this is given September 6th '1842, and the other is September first 1842.

323 Q-That is the dates you referred to? A-I see they are,but I thought it was later than that.

324 Q-You were in Nauvoo on that date,-September first '42,and September 6th '42? A-Well sir those are questions which I could not answer you unless I had time to examine my records or

journals, I would have to examine my journal before I could answer that question. I had been away a great deal from the church in those years,and at that time I could not tell you whether I was there or not,but I know I was not there at the time of the death of the prophet.

325 Q-What time after you removed to Nauvoo,were you one of the editors of,and interested in the publication of the Times and Seasons A-Well I could not tell you that either from memory.

326 Q-Well that was in 1846 was it not? A-Perhaps it might have been.

327 Q-Was it in 1844? A-Oh no I was wrong about that. It was before the death of Joseph Smith,and he was slain in '44. He was killed in '44 and it was before that that I was connected with the Times and Seasons.

328 Q-That paper was published by yourself and John Taylor? A-Yes sir.

329 Q-Were you assisting John Taylor in the editorship of that publication? A-Yes sir.

330 Q-He was the editor after Joseph Smith was killed? A-Yes,perhaps so,but I do not know for I was not there at that time. I was engaged in the work in the eastern lands at that time

331 Q-At what time was that? A-That was at the time of the death of Joseph. I was in the eastern country at that time.

332 Q-Where were you at the time that Joseph Smith was killed? A-I was in the City of Boston.

333 Q-How long had you been there? A-In Massachusetts?

334 Q-Yes sir,in that country,or state? A-Well I was there several weeks. I don't know how many days or weeks I was in the east. I could tell by reference to my journals,but cannot state it now from memory.

335 Q-Were you there on a mission? A-Yes sir.

336 Q-What time did you start on your mission? A-Well I could not tell you that either.

337 Q-About what time was it that you started on the mission? A-I couldn't tell you the date,but it was in the spring before his death,-that is the spring before the death of Joseph.

338 Q-Was it after the April conference of 1844? A-I think it was.

339 Q-You attended the April conference in Nauvoo in 1844 then? A-I think I was.

340 Q-Was there any revelation presented to that conference at that time that you know of? A-Not that I recollect,-that is the conference of 1844?

341 Q-Yes sir? A-Not that I recollect of.

342 Q-Well you would recollect it if any such a thing had happened? A-Well I could not say that I would.

343 Q-If it had been presented,-?A-I will say this much however,that very seldom revelations were ever presented to the church in the form of a revelation. It has not been a practice at these conferences to present revelations

344 Q-If there had been one presented to the quorom of twelve at that conference,would you recollect that? A-Well I cannot say.

345 Q-Well what is your best judgement about it? A-I cannot say as to that.

346 Q-Is it your best judgement that you would or would not? A-It is a thing that has very seldom ever been done in that way,- that is the presentation of a revelations as revelations to the conference has very seldom been done.

347 Q-Well I am not speaking of the quorom of twelve and the presenta tion

of revelations to the quorum of twelve? A-Well that is what I say,-it is something that has very seldom been done in our conferences or quoroms that way. Now there is a great many things that you might ask me that from my memory alone I could not answer you and tell you all about them at all.

348 Q-You were not present at the regular conference prior to ~~the~~ ~~death of~~ Joseph Smith's death? A-Prior to his death,-did you say prior to his death?

349 Q-Yes sir? A-Yes sir,I was at some of them.

350 Q-You were not present at the conference in 1842? A-I think you asked me that question before.

351 Q-No sir I asked you about the conference of 1844 and the one of 1841 I think? A-I was in England in '40 and returned in '41, but I don't know what the date of my return was.

352 Q-Well now that time then you returned,how long did you remain in Nauvoo,before you returned,-I mean how long did you remain in Nauvoo before you left again? A-I could not say. I really cannot tell you these things from memory.

353 Q-After you returned ~~to~~ Nauvoo~~from~~ England,were you at a conference held there,before you left again? A-Well I cannot answer that question either.

354 Q-You don't know? A-No sir,for I trusted all these things to my pen. I kept regular diaries or records of my doings,and I cannot answer these questions without reference to them. I trusted to my pen in all my business in that way,and of course in my memory regarding a great many of those things I am not positive.

355 Q-So that you have no recollection now,_that is no distinct recollection of attending a ~~conference~~ any conference after you returned from England,until in the spring of 1844,-at the April conference in 1844? have you? A-No sir,but I think I attended some conferences,-one or two in the mean time,but I cannot state the date.

356 Q-Now in your direct examination the other day you spoke of anointings and washings,and baptisms,and other ordinances that you participated in at Nauvoo prior to Joseph Smith's death? A-Yes sir.

357 Q-Whereabouts did those take place? A-In Nauvoo.

358 Q-At what building in Nauvoo,if any? A-Well the baptisms were in the font I think-of course in Joseph Smith's store,-that is the store he occupied there was a ~~steam~~ ~~mill~~ room in the store building ,and we met there frequently on matters of that kind in connection with church affairs.

359 Q-Was it in Joseph Smith's store that your washings and anointings were had? A-Yes sir,those endowments were given in that store.

360 Q-The endowments were given in that store? A-Yes sir.

361 Q-At what place in it? A-Well,-in what way?

362 Q-I mean what room? A-Well some ordinances were performed in the lower room,and some ~~in~~ were performed in the upper room of the store building.

363 Q-You say some part of the ordinances were performed in the lower room,and some part in the upper room? A-Yes sir.

364 Q-Was there any part of them performed at any other place? A-At any other place?

365 Q-Yes sir,-that is in any other house? A-Instructions were given,-counsels were given in other places,but I do not recollect any ordinances being performed except what was performed in the temple.

366 Q-Than do you say that the anointings of persons and washings ~~d~~ did not.

occur at any other place that that that building,so far as you know? A-I do not recollect. There was meetings held in the masonic hall. We held a good many meetings in the hall called the "Masonic Hall". It was built by our people,and the meetings were held there,but I do not recollect of any of the ordinances being performed at that place.

367 Q-Was a part of the endowment ordinances administered in the palace of Joseph Smith ,and the rest of them in the Masonic Hall? A-There was meetings held in the Masonic Hall,-

368 Q-Well were a part of them performed in his residence? A-In his store?

369 Q-No,in his residence? A-No sir.

370 Q-They were not? A-No sir. not to my knowledge.

371 Q-Well if they had been carried on there,do you think you would have known it? A-I think so, Yes sir.

372 Q-Now in your direct examination the other day your attention was called to a paragraph thirtynine on page four hundred and sixty four of Ex hibit A,being the book of doctrine and covenants of the 1880 edition ,published by your church here in Salt Lake City,as identifying the ordinance there. Now how are you able to tell that the ordinances mentioned in that section are the ordinances that you say were performed there in Nauvoo? A-What is the meaning of that section?

373 Q-Well I will read it,-"therefore verily I say unto you that your washings and your anointings,and your baptisms for the dead, and your solemn assemblies,and your memorials for your sacrifices,by the sons of Levi,and for your oracles in your most holy places, wherein you receive conversations,and your statutes and judgments for the beginning of the revelations and foundation of Zion,and for the glory,honor and endowments of all her municipals,are ordained by the ordinance of my holy house which my people are always commanded to build unto my holy name". Now sir do you say that the ordinance administered there in the Masonic Hall,-partly in the Masonic Hall at Nauvoo and partly at other places were the ordinances spoken of in this revelation? A-Well the baptisms for the dead were administered in the first place in the river,and then in the room in the temple that was built for that purpose. Of course they were administered in different places according to the different ordinances.

374 Q-You had a special order,-a special command for administering them in the river did you not? A-Well there was a revelation given to Joseph Smith concerning baptism for the dead.

375 Q-That is the fact? A-Yes sir.

376 Q-There was a special revelation in relation to baptism for the dead? A-Yes sir.

377 Q-Well did it not command that the ordinance ~~was~~ of the baptism for the dead should be performed in the temple,and no where else? A-No sir.

378 Q-It did not? A-No sir.

379 Q-And you swear to that? A-No sir, not when this revelation was first given concerning the dead.

380 Q-And that you swear to? A-Yes sir. Of course when you have a temple the order of God has always been,-or at least has been supposed to be in our day,that when there is a temple the ordinance must be administered in it,but when there is no temple it may be administered outside of the temple.

381 Q-Then you say the order was to administer it outside of the temple in the river until the temple was completed? A-Yes sir.

382 Q-Where did that order come from? A-That was the order of the

prophet Joseph.

383 Was permission given by Joseph,or by the Lord either for these other ordinances to be performed outside of the temple,-for instance the ordinances of annointing or washing? A-Yes sir they have been done outside of the temple.

384 Q-Well was there an order or authority from the Lord or the prophet either for that? A-Yes sir.

385 Q-Well will you give us the revolation permitting or authorizing that practice? A-No sir,I couldn't do it.

386 Q-Well will you give us the revolation permitting or authorizing that practice? A-No sir,I couldn't do it.

387 Q-Can you cite us to your authority for that practice? A-I want to understand this one thing,-Joseph Smith was a prophet,seer and a revelator,and was so acknowledged by the saints,and whatever he said or counseled in these things,or in these matters was accepted.

388 Q-Was he higher than the law? A-Greater than the law that God has revealed through Joseph Smith?

389 Q-Yes sir? A-No sir,but he was the medium through which the law was revealed.

390 Q-How was the prophet to give the word of God? A-How was the prophet to give the word of God. He was the prophet through which the word of God was revealed to all man kind.

391 Q-Well after the law had been revealed to him,then was he,the prophet,higher and greater than the law so revealed to him? A-I do not understand what you mean?

392 Q-I mean that after the law had been revealed,was he not then subject to the law the same as any other person? A-He as the law giver himself.

393 Q-Well was he not subject to the law he gave himself? A-I suppose he was.

394 Q-You suppose he was,-as a matter of fact wasn't he? A-Yes sir.

395 Q-You do not mean to say that he was the law maker? A-He was the law giver to the church, because he was the prophet,seer and revelator,and all the laws that came to the church came through his mouth,therefore you might call him the law giver,-I know I do

396 Q-That is he received the laws from God and communicated them to you,or rather to the church? A-Yes sir.

397 Q-Now after a law had been received from God and communicated to the church in that manner through the medium of Joseph Smith as the prophet,seer and revelator then do you say that the prophet,seer and revelator was higher than the law,-higher than that law so received? In other words could he violate that law unless by direct command of God? A-No sir,I do not say that,but I do say that he governed and controlled all these things.

398 Q-After a law had been revealed from the Lord,was it possible in your opinion for the law to change that law by revealing something that was contrary to his law previously revealed through the prophet,-that is do you think the Lord would reveal a certain thing to Joseph Smith in 1841,and then reveal a contrary doctrine in 1842? A-No sir I don't know that I would,-but as I say,or have said before with regard to all your questionings on these things,-the prophet himself stood at the head,and revealed counsel from the Lord,and he dictated to the church in regard to these things,and revealed matters and things to the church as he was moved upon by the power of the Holy Spirit.

399 Q-To refresh your recollection I will read paragraph thirty seven

"And again,verily I say unto you,how shall your washings be acceptable unto me,except ye perform them in a house that you have built unto my name? A-Well that is all right,

400 Q-Do you say sir that these washings were acceptable unto the Lord A-Yes sir.

401 Q-You do? A-Yes sir,we think so.

402 Q-Were they performed in a house that was built unto the Lord? A-Yes,sir.

403 Q-They were? A-We think so.

404 Q-Was the Masonic Temple a house built for the Lord? A-No sir.

40 Q-Please explain then how it comes that they were acceptable unto the Lord ,if it was not a house built unto the Lord? A-Well I didn't say there were any washings in the Masonic Temple,but there was meetings held in the Masonic Temple.

406 Q-It was just a store room was it not? A-No sir,it was a hall built above the store room.

407 Q-Where that was performed? A-No sir,we do not understand each other. We are talking about two different things. There were certain ordinances performed in the store there for there was not a temple built at that time. It was just as it was in this city,for there was a great many ordinances performed there at that time the same as there has been here,for there was not a temple built at the time,and they were performed out side of a temple for that reason. When there is not temple it is impossible to perform these ordinances in a temple, -for the reason that there is no temple in which to perform them. It was the way it was here before there was a proper places built expressly for that purpose,-rooms were set apart and dedicated to that purpose.

408 Q-Dedicated for what? A-Dedicated to the Lord for that purpose.

409 Q-Now do you claim that these washings and anointings performed there under these circumstances,were the washings and anointings referred to in paragraph thirty seven that I have just read. I will read paragraph thirty nine on page four hundred and thirty nine of Exhibit A,again. It was read to you the other day of your direct examination,and I will call your attention to it again. It is as follows,-"Therefore,verily, I say unto you,that your anointings,and your washings,and your baptisms for the dead,and your solemn assemblies,and your memorials for your sacrifices,by the sons of Levi,and for your oracles in your most holy places,therein you receive conversations,and your statutes and judgements for the beginning of revelations, and formation of Zion,and for the glory, honor and endowment of all her municipals,are ordained by the ordinance of my holy house,which my people are always commanded to build unto my holy name". Now I will ask you again if you claim that the washings and anointings referred performed under the circumstances you have just stated,are the washings and anointings referred to in the paragraph I have just read? A-Well now I don't recollect just how that reads, but there are certain things referred to there as I understand it in that paragraph,-

410 Q-I am just asking you wit' reference to the washings and anointings,-I am just calling your attention at this time to them, and to nothing else? A-Yes sir.

411 Q-They are the same? A-Yes sir,-so we understand it.

412 Q-Now do you say those were the ordinances that were performed there? Do you say that the ordinances that were performed there were the ordinances referred to in that paragraph on washings and

anointings? A-A portion of them are,-we have always had permission,-

413 Q-Well now,did you not state in your examination in chief that these are the identical anointings that you received there? Did you not state that Mr Hall when he was anointing you the first one? A-What I said?

414 Q-That the anointings and washings referred to here in paragraph thirty nine of the revelation of page four hundred and thirty four of Exhibit A,of the Commandments,were the washings and anointings you received in Nauvoo? A-Well it is as I said, there are different washings now performed in these ordinances,for some of them were performed there.

415 Q-Well do you say that the oil or incense of washing and anointing that were performed there,are the same referred to in this section or paragraph? A-Some of them,I do.

416 Q-Now I will read you a paragraph from one of this same revelation on page four hundred and thirty of Exhibit A,-"And verily,I say unto you,let this house be built unto my name,that I may reveal my ordinances therein unto my people." Do you claim that the ordinances referred to in this preceding paragraph were performed there,before there was any house built to the Lord? A-I will say they were will performed before the building,when there was no house erected for that purpose. There was rooms or buildings set apart and dedicated to the Lord for the performance of the ordinances. There was a time in the history of the church when one hand had water or wine of necessity there could not be any house specially erected for that purpose. So it was at Nauvoo,and so it was here in the early days.

417 Q-But this revelation says the house must be built in which the Lord will reveal his ordinances? A-Yes sir.

418 Q-Now sir were they revealed and administered outside of that house? A-Those ordinances were revealed at Kirtland,-the ordinances of the church were revealed at Kirtland,and were confined to the church here, but then they were in a different room perhaps.

419 Q-In what room were they administered? A-Well we had a temple there,and we have now taught that.

420 Q-What ordinances were revealed in Kirtland and what ordinances will be in it? A-What ordinances will I give it for?

421 Q-What ordinances were revealed at Kirtland and what ordinances revelation will I find it in? A-Well it was,-I don't recollect what part of the book it was in,but it was given in '36

422 Q-That was the ordinance on washing the feet,and that alone was it only? A-Yes sir,that is the only I have a special reference to but there were other lessons that too.

423 Q-Don't you know that in that revelation of 1836,there was no ordinance being the act of washing the feet revealed? A-Well I do know not more than that. I know,-

424 Q-And the anointing with oil? A-Yes sir.

425 Q-And those were the ordinances that were performed in the temple at Kirtland,-washing the feet,and anointing with oil? A-Yes sir.

426 Q-Is that the ordinance that has been taught in this revelation? No sir,it is not the same ordinance.

427 Q-Then why do you say those ordinances were revealed in Kirtland? A-I say those ordinances on endowments were given and taught in Kirtland.

428 Q-Would you be kind enough to give me the section you have just been reading?(Witness hands counsel asking the question the book marked Exhibit "A",Nort,s)? A-These ordinances were adopted or performed in reference to washing the feet.

429 Q-Is that an endowment ordinance? A-Yes sir,it is.

430 Q-Is that the endowment ordinance referred to in section thirty ninet A-In section thirty nine?

431 Q-In paragraph thirty nine I should have said,-that paragraph there? A-No sir I don't think it is.

432 Q-Well then why do you say the ordinance of washing and anointing and baptisms for the dead,that were revealed here in 1841 were revealed and practiced at Kirtland? A-I did not say that.

433 Q-Well if you did not say that I would like to know that you did say? A-I said there were ordinances revealed at Kirtland.

434 Q-But so were not revealed though? A-Yes sir,-No sir,-they were put in practice.

435 Q-Or they revealed at the time of the giving of the revelation in 1841? A-What date is given there?

436 Q-Well never mind the date,-were they known to the church prior to the giving of the revelation of 1841? A-No sir.

437 Q-They were not known to the church until the time they were made known in 1841? A-They were not known to the church before the time they were revealed.

438 Q-Now these ordinances or endowments revealed in that revelation are to be conferred or practiced in a house built unto the Lord,were they not? Is that not the fact Mr Woodruff? A-Well that revelation was given before the temple was built was it not?

439 Q-It was given in 1841? A-Well that was before the temple was built. There was no temple at Nauvoo then.-never was a commanded one.

440 Q-Well this revelation says don't it that they were to be revealed unto the house of the Lord,-it says "that these ordinances are to be revealed,which had been hid since before the world was? A-I don't know about that.

441 Q-Now paragraph forty of that section and say if that is not so? A-"Therefore I say unto you that your anointings and your washings;"I am reading the one before it too,-"and your baptisms for the dead,and your solemn assemblies,and your memorials for your sacrifices,by the hand of Levi,and for your sacrifices in your holy places,wherein you receive conversations,and your feasts and judgments,for the beginning of revelations and foundation of Zion,and for the glory,honor, and excellent of her crown,are ordained by the ordinances of my holy house,which my people are always commanded to come into my holy place.
And verily I say unto you, let this house be built unto my name,that I may reveal mine ordinances therein,unto my people."

442 Q-What do you say to that? A-Yes sir that's it.

443 Q-Now do you claim that those were to be revealed,or were revealed before the temple was built,do you? A-What?

444 Q-The ordinance mentioned in section thirty ninet? A-I don't claim that they were revealed before the date given there.

445 Q-That was in 1841,and the temple was not built then? A-No sir.

446 Q-Now were these ordinances revealed in'41 before this temple was built? A-I do not know that I can say positively in regard to that?

447 Q-Now then is this not true Mr Woodruff that that ordinance

could not have been revealed at that time,for it says that it will not be revealed until there is a house or temple built in which to practice the ordinance or endowment,and the fact is that at that time there was no such an house or temple built? A-Well I will say this gentlemen,-Joseph Smith was killed before that house was built or completed,and those revelations were given by Joseph Smith before his death. Now there are two facts about which there can be no manner of a dispute or question.

448 Q-That revelations? A-They were delivered before his death,That is a fact,and it is also a fact that these ordinances were revealed to Joseph Smith,and also practiced before his death practically the same manner that they have been administered since his death.

449 Q-Where is the revelation revealing the ordinance of anointing, washing and anointing for the dead,as spoken of in paragraph forty five of page forty hundred and forty four of Exhibit A in the revelation of 1841? A-There is no revelation in existence or print that I know of, the revelations,-those ordinances to the public that I know of.

450 Q-There is no revelation existing that you know of in existence in print that you know of that gives those ordinances to the public? A-No sir,-not that I am aware of.

451 Q-In those revelations in your knowledge,-is there one now in manuscript,or has there ever been one in manuscript to your knowledge? A-Joseph Smith revealed them before his death, I do know that himself before his death.

452 Q-I ask you if there was any revelation to your knowledge in manuscript that revealed those ordinances referred to in the revelation of 1841,and revealed likewise the manner in which it or they were to be administered? A-Well those ordinances were given,-they have been given,and practiced too,-whether they were published or not. They were given and practiced and carried out by the prophet. They were carried out by his instructions and given to the church,-or given to the elders of the church.

By Mr. J. Walker,-

453 Q-The question is whether there was a revelation to that effect or not,and if so do you know anything about such a revelation from the revelations or foodrs? A-It was all a revelation so far as that matter is concerned.

By Mr. P.P. Kelly,-

454 Q-Will you say that there was ever a revelation reduced to writing at any time,or at any place,from the time of the foundation of the church,up to the present day,revealing the washing and anointing referred to in paragraph thirty nine of this revelation and if so give me the revelation,the date of the revelation,and where it was given,or the book therein can find it? A-Published they are not published,-the ordinances revealing these things are not published,-they have never been printed.

455 Q-Were they in manuscript,-were they ever in manuscript,or are they not in manuscript? A-Yes sir they have been in manuscript.

456 Q-They have been reduced to writing? A-Yes sir.

457 Q-Were they ever presented to the church? A-No sir not to the body of the church.

458 Q-They were not presented to the church? A-No sir, except to ones the ones that received those ordinances or endowments. They were presented in that way.

459 Q-Did you ever hear them read from the manuscript? A-I heard

I have heard them read,or parts of them.

460 Q-Did you ever read them your self from the manuscript? A-Well I can't say. What do you mean? I do not understand what you mean,-in what way?

461 Q-I asked you if you had ever read these ordinances from the origi-nal manuscript? A-Well I don't know that I ever read these ordinances as they were given by the prophet in the original maniscript. I can't say that I did that. I may have done so, but if I ever did I have forgotten it,or don't recollect so that I can say with positive assurance as to that.

462 Q-Did you ever see the original manuscript that contained them? A-I do not recollect that either, I will say just this to this company of men assembled here,those ordinances were not given,-

463 Q-Of course that is not responsive to my question,and I object to your saying anything about it. I want you to answer my questions Mr Woodruf,and if you cannot do so,why simply say you can't. What you were going to say is not responsive to my question,-? A-I know it,but I want to say it neverthe less,-Those ordinances that were given in connection with the offering of these endowments were given by instruction that is not public to the world,-in other words as the ordinances were administered,the manner and form of doing it is not made to the world,no more so than the ordinances of the Masonic or any other secret orders ordinances or endowments are made public to the world. Nowof course with reference to the ordinance of baptisim that has been known to every body that has been at all acquainted with the manner of baptism,for there was nothing secret about that.Baptism for the dead is an ordinance that was publicly practiced there at Nauvoo before the death of the prophet,and it is one that is well known and is one also of the ordinances referred to in that revelation a part of which I have read here.

464 Q-Well now in your direct examination the other day,-Well I will move the court to exclude that answer from the record on the ground that it is not responsive to the question asked the witness. Now in your direct examination the other day by Mr Hall,you were asked to read section forty four,paragraph three of the 1835 edition of the book of doctrine and covenants,for the purpose of showing that certain things therein mentioned were not to be shown or given to the world? A-Yes sir.

465 Q-You recollect that? A-Yes sir. I recollect about that.

466 Q-I will ask you now if the things that were spoken of in that revelation were not to be revealed unto the church? A-They were taught to the church,-that is they were taught to individuals in the church,as they received these ordinances. When they received the ordinances,they were taught certain things,and and these were amongst the one so taught.

467 Q-They were presented to the church for its acceptance as a body,-or as a church? A-No sir.

468 Q-They were not? A-I think not.

469 Q-You say they were not? A-I say I think they were not.

470 Q-You say you think they were not? A-Yes sir.

471 Q-Mr Woodruf don't you know that a general conference of the church held at Kirtland in 1835 that very revelation was presented to the church,-was presented and passed every quorom in the church,and was then presented to the full church,or the body of the church in conference assembled and was accepted by the church after a vote was taken thereon? A-The principles were given there at that time,and were accepted by the church Those revelations

on the endowments or ordinances that were received there at that time,but there was nothing said about baptism,and I don't think that any of the brethren were given there at that time,-

47: Q-When there was no such a thing as endowments from,-up to 1835 or '836? A-To '836?

47: Q-Yes sir? A-Well, not of course these revelations on the endowments were not here,-to,-I believe they were presented to the church there;but I can't say as to that,for I was not present at that time and understand about it.

47: Q-Not that documents as you refer to,-those that are mentioned or spoken of in paragraphs three in section forty two of the 136th section of the book of doctrine and covenants? A-That the ordinances of the church,-it does not give the covenants to be ordained under these ordinances,-they were not revealed,that is the secretary attended the performance of the ordinances and not revealed,-that is the idea I wished to convey.

47: Q-Well did you say that that revelation,-we let me call your attention again to paragraph three,section for a four,book of doctrine and covenants. You remember that he said he would let you see or tell you of it? A-Yes sir I remember,but it was years (pointing to his glasses). I don't see it, Some of the brethren will have to read it for me.

47 Q-Just read it or let paragraph three? A-I can't do it. Will you read it for me(speaking to Mr Hall).

Q-Brother Hall will read it for us follows,-(the paragraph referred to in attitude of the reader of it) 1:50

47 Q-Now I will not ask you to read it these letters stolen or in this section just read to you are referred,-refer to revelations and documents that are supposed to be revelations or in paragraph three or likely A-I don't know that they are.

47 Q-Does it not refer to them that received it to be some paragraphs in which the language is rather A-That language is rather

47 Q-Well let us;"Now these letters" A-I do not believe that I have that arranged correctly,-let me see it ,-I believe I can read it with a little trouble,-(the witness hereupon reads paragraph) "And now about those letters,-"

480 Q-Read the whole of it,-the whole of that paragraph,-? A-Again it is written in a mixed manner;therefore it is more express the other scriptures,and it might work upon the hearts of children of men, either for my own glory;therefore I will speak unto you this mystery,for it is given unto you,to know concerning this trouble. I speak unto you that are chosen in this time,even as one,that you may enter into my rest. For behold the mystery of godliness,how great it is! for behold I am God,and the punishment which I give from my hand is endless punishment,for endless is my name,therefore eternal punishment is God's punishment;eternal punishment is God's punishment; wherefore I command you to repent,and keep the commandments which you have received by the hand of my servant Joseph Smith,jr.,in my name,and it is by my almighty power that you have received them,therefore I command you to repent,repent lest I smite you by the rod of my mouth,and by my wrath and by my anger,and your sufferings be sore,how sore you know not,how exquisite you know not. ~~For behold,I Gmx~~ yea,how hard to bear you know not. For behold,I God, have suffered these things for all,that they might not suffer if they would repent,but if they would not repent they must suffer

all to tremble because of pain,and to bleed at every pore,and to suffer both body and spirit,and would that I might not drink the bitter cup,and shrink,nevertheless,glory be to the Father,and I partook and finished my preparations unto the children of men;wherefore,I command you to repent,lest I humble you by my almighty power,and that you confess your sins lest you suffer these punishments of which I have spoken,of which the smallest,yea,even in the least degree you have tested in time past caused me to withdraw my spirit. And I command you that you teach nought but repentance;and show not these things unto the world until it is wisdom in me for they cannot bear meat now,but milk they must receive;therefore they must not know these things lest they perish;learn of me and listen to my words;walk in the meekness of my spirit and you shall have peace in me;I am Jesus Christ;I come by the will of my Father,and I do his will".

46. Q-Now does this part of the parallel refer to these things,-the "these things",-does that refer to the anointings and washings and the priesthood revelations referred to in paragraph thirty five which you have read here? A-Well I don't know that I can say if it refers to that.

46A Q-Well there is something in the section your office read to you a little while ago about washings and anointings or priesthood in there? A-What is that?

46B Q-In the paragraph which you have read,and this will be read to you also,there is nothing said about washings and anointings or priesthood in there? A-No sir.

46C Q-You did not read anything about that of you? A-No sir,there is not in the section that.

46D Q-Now I want to read paragraph fifteen of section one hundred and thirty two,being in the 1835 edition of the book of doctrine and covenants,that you attention was called to here-to-fore? Now here begins to read it by myself,and I will read it to you slowly so as to refresh your memory in regard to the contents,-"Wherefore I say unto you,keep these things from going abroad unto the world until it is expedient in me,that ye may accomplish this work in the eyes of the people,so in the eyes of your enemies, that they may not know your works until you have accomplished the thing which I have commanded you;that when they shall know it they may consider these things,for when the Lord shall appear he shall be terrible unto them,that fear may seize upon them,and they shall stand afar off and tremble;and all nations shall be afraid because of the terror of the Lord and the power of his might,even so. Amen". Now do you understand from that section fifteen,paragraph fifteen that the things mentioned in it were not to be revealed to the church.

A-All I understand is only what it says there.

485 Q-It says the word "world",does that include the church? A-No sir, not. It says there in connection with that,-what is the beginning of that?

486 Q-It says"Wherefore I say unto you keep these things from going abroad unto the world until it is expedient in me,that ye may accomplish this work in the eyes of my people"? A-What is it referring upon?

487 Q-It is a revelation given March 7th 1831 and the first lines are, "Hearken,O ye,my people of my church,for verily I say unto you that these things were spoken unto you for your profit and learning",-No that is the wrong revelation,-the date is all right,but the revelation referred to begins in this manner,-Hearken,O ye people of my church to whom kingdom has been given;hearken ye,and give ear unto him who laid the foundation of the earth;who made the

all to tremble because of pain, and to bleed at every pore, and to suffer both body and spirit, and would that I might not shrink, be bitter sore, and shrink, nevertheless, glory be to the Father, and I partook and finished my preparations unto the children of men; wherefore, I command you to repent, lest I humble you by my almighty power, and that you confess your sins lest you suffer these punishments of which I have spoken, of which the smallest, yea, even in the least course you have taken since I withdrew my spirit. And I command you that you teach naught but repentance; and show not these things unto the world until I shall see fit in my wisdom for they cannot receive; therefore they must not know these things lest they perish; learn of me and listen to my words; walk in the meekness of my spirit and you shall have peace in me; I am Jesus Christ; I come by the will of my Father, and do his will".

476 Q-Now you have read part of the paragraph I gave you a few minutes ago, -the part "and these things", -does that refer to the anointings and washings and ordinances performed in the temple, yes or no? A-I don't know that I can say it refers to them.

477 Q-Well, there is nothing said in this section your father wrote to you and which you have just read about washings and anointings or ordinances in temples? A-There is not.

478 Q-In the paragraph which you have read, and this revelation read to you also, there is nothing said about washings and anointings or ordinances in temples? A-No sir.

479 Q-You did not say anything about that at all? A-No sir, there is nothing said about that.

480 Q-Now I want to read paragraph fifteen of section fifteen in Exhibit No. 1 on page one hundred and thirty two, being in the 1835 edition of the Book of Doctrine and Covenants, that you attention was called to here-to-fore? Now more easy to read this by an hell, and I will read it to you again so as to refresh your memory in regard to the contents, -"And now I say unto you, keep these things from going abroad into the world until it is expedient in me, that ye may accomplish this work in the eyes of the people, and in the eyes of your enemies, lest they say of your works until you have accomplished the thing which I have commanded you; that when they shall know it, they may consider these things, for when the Lord shall appear he shall be terrible unto them, that fear may seize upon them, and they shall stand afar off and tremble; and all nations shall be afraid because of the terror of the Lord and the power of his arm, even so. Amen". Now do you understand that that section fifteen, paragraph fifteen, that the things therein spoken of are to be revealed to the church.

A-Well I understand only what it says there.

485 Q-It says "to the world", does that include the church? A-No sir, not it says there in connection with that, -what is the beginning of that?

486 Q-It says "and now I say unto you keep these things from going abroad to the world until it is expedient in me, that ye may accomplish this work in the eyes of my people"? A-What is it referring upon?

487 Q-It is a revelation given March 7th 1841 and the first lines are, "Hearken, O ye, my people of my church, for verily I say unto you that these things were spoken unto you for your profit and learning", -No that is the wrong revelation, -the date is all right, but the revelation referred to begins in this manner, -Hearken, O ye people of my church to whom kingdom has been given; hearken ye, and give ear unto him who laid the foundation of the earth; who made the

heavens and all the hosts thereof"? A-Well sir of course you will see from these revelations that the Lord gave commandments and principals,and such things that were not revealed to the world until such time. That is a principle that has been manifest in the dealings of the God with men to a greater or lesser degree in all ages. There were or are certain revelations that were given to the church,and to the whole world,-to every body that chose to receive them,and certain other revelations that were given to the church only,and just certain revelations were given to the church that the church was to keep until a certain time when they should be made manifest to the world.That was the way it was in the days of the prophet,and was in the time of Christ.

488 Q-Then this injunction that the things spoken of in these revelations were to be published to the world is the fact,but there is or was no injunction that they should not be published to the church? A-Well now in regard to that I will say, that there was things given to Joseph Smith or through Joseph Smith,that were revealed to him,that he kept to himself,and there was other things given to Joseph Smith in the way of revelation that he did reveal to certain individuals in the church,and which he did not reveal to the hole or body of the church.

489 Q-But he did not reveal anything to the church that he was prohibited from revealing to the church? A-No sir,unless the God required it not to be revealed,-in other words he only revealed that to the church which the God directed him to reveal to the church.

490 Q-Now I want to refresh your recollection by reading a part of paragraph six of section one hundred on page two hundred and fifteen of the 1886 edition of the book of Doctrine and Covenants. I will read the whole paragraph so that you can see the connection.

"And for this cause that men might be not partakers of the glory which is to be revealed,the Lord sent forth the fulness of his gospel his everlasting covenant,reasoning in simplicity,to prepare the way for those things which are coming on the earth;and for the Lord's errand in the day when the meek shall confound the wise,and the little one become a strong nation,and two shall put their tens of thousands to flight;and by the weak things of the earth the Lord should thresh the nations by the power of his Spirit. And for this cause these commandments were given;they were commanded to be kept from the world in the day they were given,but now are commanded to go forth unto all flesh. ~~and unto him that remaineth~~ And this according to the mind and will of the Lord, who reigneth over all flesh;and unto him that repenteth and sanctifieth himself before the Lord,shall be given eternal life". Now that don't refer to keeping them from the church does it? A-No it don't appear that way.

491 Q-~~The~~ does not command that they shall be kept from the church? A-No sir.

492 Q-Now your attention was called to the epistle of Matthew, seventeenth chapter and ninth and thirteenth verses,-the ninth verse of the thirteenth chapter and the tenth verse also,where it says that Jesus did not teach certain thing to the world,but refers to them as being taught to the persons within the kingdom but not to those out of the kingdom. Did you under-stand the world referred to there,included the church too? A-No sir,and if it was not in that language I would not think it did.

493 Q-Do you in the second letter to the Corinthians,fourth verse of the twelth chapter,-do you recollect that quotation that was read to you? A-No sir.

494 Q-It was in the letter to the second Corinthians,the second letter to the Corinthians

what is referred to.

495 Q-You don't recollect that,-is that what you desire to be understood as saying? A-Yes sir,I have read the bible and a good many other books also,but I can't remember everything that is in them.

496 Q-Now I will read the fourth verse of the twelfth chapter of second Corinthians,-"how that he was caught up into paradise and heard unspeakable words,which it is not lawful for man to utter". Do you understand that as teaching there shall be a law of the church that the church as a church shall not know? A-I do not know myself that that has any reference to the church. I am sure I do not know.

497 Q-Well, do you think it does not have any reference to the church A-I say not.

498 Q-If it were understood that church verse how would you do it? A-Well let me read it and I will tell you more about it presently. I would like to hear what you are talking about.

499 Q-Well I will read it,-"how that he was caught up into paradise and heard unspeakable words,which it is not lawful for a man to utter".
I will read from the revelation of the Saviour,-"It is not given unto man to gaze upon my glory. I will come in visions and revelations of the Lord. I know a man in Christ above fourteen years ago(whether in the body I cannot tell,or whether out of the body I cannot tell,God knoweth)such an one caught up to the third heaven and I knew such a man (whether in the body or out of the body I cannot tell;God knoweth) how that he was caught up into paradise,and heard unspeakable words,which it is not lawful for a man to utter" How do you understand that as referring to the church? A-I do not know that it has any reference to the church. I do not know that it has anything to do with the church in particular.That was what happened to a disciple that occurred in the days of Christ and the days of the apostles.

500 Q-Does that refer to anyone of the church that the church should not know? A-I do not understand that it does particularly. Of course there was things particularly that the church was not to know,-that they were not to reveal to the church,or were not to be revealed to the church,-but that not to be revealed to the world. Now you know just about as much about it as I do,for these things are recorded in the days of the history of Christ,and what they mean is largely a matter of conjecture, for it is over these things among others that the Christian world has been at war,so to speak,for a number of years,-over the construction to be placed upon these matters Of course as I said they are recorded in the histories of the days of Christ,and the days of the apostles,and I don't know that it has any particular reference to us as a church.

501 Q-Now what office did you hold in the church in the days of Joseph Smith,-say during the year 1842? A-I was an apostle.

502 Q-You were in Nauvoo during the year 1842,or nearly all the time during that year? A-Yes sir. Well now I will say in answer to that question that I cannot tell where I was without referring to my journals.

503 Q-Well,,you were there a part of the time at least,were you not? A-I think so.

504 Q-Now I will ask you what the law of the church,and the rules of the church on marriage were, in 1842? A-Well the rules of the church were the same as far they had been so far as I know,-That is with reference to the common marriage in the church in the common

ordinary marriages of the church,or in the church,there was no change up to that time that I know anything about.

508. Q-Were there any un-common ones then? A-Yes sir,there were or was no change in the "common marriages",and there was un-common ones at that time? A-Well I say that because at that time Joseph Smith had revealed to me the patriarchal order of marriage,which had been revealed to him,and he practiced it himself. He practiced it at that time,and of course it was different from the other common form of marriage.

506 Q-Do you say that Joseph Smith revealed to you the patriarchal order of marriage at that time? A-Yes sir,some time about then.

507 Q-Was this the same as the church marriage system? A-Yes sir.

508. Q-When was it revealed? A-Well sir it was revealed to him in a very early day.

509 Q-How do you know that? A-Because of his testimony.

510 Q-When did he testify to it? A-Well sir he told me of it a year before his death.

511 Q-And that was in 1844, you say? A-Yes.

512 Q-The year before his death? A-No, no, It was quite a time before his death that he revealed it.

513 Q-Do you know of any law or regulation or rule of the church that provided to Mr. Joseph Smith in the "common marriages",-in the very last of the year 1842,was there any law or regulation or rule of the church that permitted any man to have more wives than one,or any other form of marriage,not written in the church,except that provided for in the book of doctrine and covenants,of the 1835 edition? A-Well Joseph Smith received a revelation concerning the law of the church which never was revealed to the church during his life,-never revealed either openly or privately to the church as a body,but was revealed to individuals of the church. Now that is as exactly to the testimony,and of course that is all I can report it. I know of no law or rule that was revealed in that way,and I believe up to a certain time that that revelation was given,and the whole thing was kept a secret excepting as it was revealed to individuals of the church. There was other publication up to a certain time that that revelation of the patriarchal order of marriage was given,and I don't know but that it was out of it was,but I know that law was revealed to Joseph Smith in so far as his testimony goes to that effect,and that was a long time before it was ever published to the church.

514 Q-Now Mr Woodruff you have made a very long answer and still you have not answered my question. My question is,-was there up to the very last of the year 1842 any rule or law of the church that permitted any man to have more than one wife,or any other form of marriage not written in the church except that provided for in the book of doctrine and covenants of the edition of 1835? A-There was no law given to the church as a church,or as a body,but there was a rule or revelation given to the prophet Joseph Smith,which he practiced himself,if the testimony of those who are still living regarding it is true.

515. Q-How do you know Mr Woodruff of your own knowledge,that there was any law revealed to Joseph Smith,contrary to the law of marriage as set forth in the book of doctrine and covenants of the 1835 edition? A-I do not know only as I said before from his testimony and that of others.

516 Q-Have you a copy of his testimony? A-No sir,I don't know that I have,or any where for that matter,but I heard Joseph Smith teach a great many things that never were written down.

517 Q-Did the church in Nauvoo,or any considerable number of them,-

any member of the church,considerable or other wise,-in 1841
or '42,teach or practice polygamy in any form whatever?
A-Yes sir they did.
518 Q-They did? A-Yes sir.
519 Q-To your knowledge? A-Well now when you come to that,I can only
say that I have heard him teach,for I have been present with
him on those occasions,and heard him teach it.
520 Q-Well did he teach it to you in 1842,-did you hear of it in 1842
or prior to that time? A-Well I can't say as to dates. I
cannot state as to dates, with regard to those things,but in
[illegible] many of them I can state when you come to talk of
[illegible],for I am a man who has written all these things down,-
[illegible] all the material parts in my career I have writ on
down. I have kept a journal or history of my life,and I have
[illegible] for a great many years,and have listened to it
[illegible] to say of these things you know,I can't
[illegible].
521 Q-Well you were present in 1842? A-Yes sir.
522 Q-Now is there any rule,or law,or precept,or teaching by
the Prophet Joseph Smith,you would have known of it,wouldn't
[illegible] have known it,and I ought to have known it.
[illegible] to it,but I couldn't say
523 Q-You would have been teaching it to the church wouldn't you?
A-No sir.
524 Q-You think not? A-No sir.
525 Q-Well if Joseph Smith was then teaching it to the members of the
church,you would have known it? A-I know this much,-that he
taught it to certain individuals,but he did not teach it open
ly to the church.
526 Q-Do you say that he taught it to individuals in 1841 or '42
either? A-No sir. I cannot give you the dates.
527 Q-Well how do you know that he taught it to individuals [illegible]
A-No sir I do not know [illegible] because I cannot tell the
[illegible],but he did teach it to individuals a good
while before his death.
528 Q-You cannot tell [illegible],or the date when [illegible] that Joseph
[illegible] the doctrine of plural marriage to individuals,
A-No sir,I cannot [illegible] you can see
[illegible] I cannot tell the exact dates,but it
was a good while before his death [illegible].
529 Q-Did you ever hear of the John C. Bennett system?
A-Yes sir,I have heard of it.
530 Q-Was Joseph Smith teaching it at that time? A-It was not a system
[illegible] accepted by the church.
531 Q-What system was it of seduction by the church? A-Bennett's system
was not accepted by the church.
532 Q-Well at that time was Joseph Smith teaching the system of plural
marriage? A-I could not say as to the date.
533 Q-You recollect John C. Bennett's seduction system of secret wife
marriage,or "secret wife system" as it was called by [illegible] A-Yes sir.
534 Q-Well now can't you recollect whether or not Joseph Smith at that
time,-that is at the time that John C. Bennett was teaching
his system [illegible],whether or not at that time Joseph
was teaching any system of plural marriage? A-I say
he was not teaching it publicly.He never did teach it public-
ly in his life time.

536 Q-Or was any other elder in the church preaching it privately to them,to you knowledge? A-There was no one teaching it only under his direction. He taught the principle to certain individuals,but as to the dates he did those things I haven't it now to my mind.

537 Q-You say he taught it to individuals? A-Yes sir,he taught it to individuals privately. He taught it to individuals and he had quite a number of women sealed or married to him,and they ,or some of them are living in this city to-day,and they were others that have died.

538 Q-Did you ever see any women sealed to him? A-No sir.

539 Q-You never saw any woman sealed to him you say? A-No sir.

540 Q-Then Mr Woodruff how do you know there were any women sealed to him? A-From testimony to that effect.

541 Q-Were you present? A-No sir.

542 Q-Then why do you testify when we are asking you for your own knowledge,and not for what you heard.we are asking you about this matter for the purpose of eliciting what you know of your own knowledge,and not for hearsay testimony as to what others have told you,or what you have heard? A-Well there is no doubt about that,for I have heardhim time and again teach the principles of the patriarchial marriage order of marriage.

543 Q-Well now to refresh your recollection and to show that there was nothing of that kind taught in 1842 I will read to you a certain article to which I find your hand attached? A-Well I would like to hear it.

544 Q-You identified this book(handing witness a book)the other day as the Times and Seasons? A-Yes sir.

545 Q-It was a paper with which you were connected as a publisher? A-Yes sir,I published the Times and Seasons or assisted init, I know what you refer to,and would like to have the date of that letter.

546 Q-It was in October 1842? A-Please read the letter.

547 Q-This is the letter which I read to Mrs Young,-Please look at that book Mr Woodruff and say whether or not that is a copy of the Times and Seasons published at Nauvoo at the time this purports to have been published? A-Well of course you know that when I see he Times and Seasons I suppose it would be a copy. Yes sir I think that is it. We published it there at Nauvoo for quite a time,-I think we published it up to the time of his death,and I suppose that is it,-yes sir I suppose that is the same book.

548 Q-Well sir that is it,and it is one of the original books too just as it was issued,-it has never been to the binder even? A-I think that is it without a doubt

549 Q-Well I meant to read this article or letter found on page nine hundred and ninety thirty nine? A-Give us the date.

550 Q-October 1st 1842. It is as follows,-"We,the undersigned members of the Church of Jesus Christ of Latter Day Saints,and residents of the city of Nauvoo,persons of families do hereby certify and declare that we no of no other rule,or system, of marriage,than the one published from the book of doctrine and covenants,and we give this certificate to show that Dr. J.C. Bennett's "secret wife system" is a creature of his own make as we know of no such society in this place, nor never did". That is signed by S.Bennett.George Miller, Alpheus Cutler,Reynolds Cahoon,Wilson Law,W.Woodruff,N.K.Whitney,Alfred Petty,Elias Higbee,John Taylor,E.Robinson and Aaron Johnson."
What do you say to that? AWell sir that is correct for we never did acknowledge it up to that time

551 Q-You never did acknowledge it up to that time? A-No sir,nor at any other time up to the death of the prophet. It was called spiritual wife business,and it was got up by Bennett,and it was nothing that was acknowledged by Joseph Smith at all, or by the church. That was an invention of Bennett's that was not acknowledged or countenanced by either by the church or Joseph Smith.

552 Q-You signed that manifesto? A-The one you have just read?

553 Q-Yes sir? A-Yes sir.

554 Q-Now you say that this spiritual wife business was something that was concooted and gotten up by John C.Bennett,and that it was not acknowledged either by Joseph Smith or the church? A-Yes sir.

555 Q-Was there any other rule acknowledged by the church? A-Nothing that was made public,and I don't know that at that time I was fully made acquainted with it.

556 Q-If there had been any other rule in the church relative to the matter of marriage,other than that set forth in the book of doctrine and covenants of the 1835 edition,you were not familiar or acquainted with it,or you would not have signed that letter? A-No of course I did not know of any at that time, and if I had I do not know of it now.

557 Q-Now here is another certificate that I want to call your attention to,following the one I have just read on the same page, and in the same column. It is as follows,-"We the undersigned members of the ladies relief society and married females do certify and declare that we know of no system of marriage being practiced in the church of Jesus Christ of Latter Day Saints,save the one contained in the book of doctrine and covenants,and we give this certificate to the public to show that J.C. Bennett's secret wife system,"is a disclosure of his own make", That is signed by the following persons,- Emma Smith,President,.Elizabeth Ann Whitney,Counselor.. Sarah M. Cleveland,Comsellor.,Eliza R. Snow, Secretary,Mary C. Miller,Lois Cutler, Thirza Cahoon.,Ann Hunter., Jane Law, Sophia R.Marks.,Polly Z. Johnson., Abigal Works., Catherine Petty.,Sarah Higbee.,Phebe Woodruf., Lenora Taylor Sarah Hillman , Rosanna Marks.,and Angeline Robinson". Now I observe amongst the names I have read to you the name of Phebe Woodruf,-she was your wife was she not? A-Yes sir.

558 Q-And the name of Emma Smith also? A-Yes sir.

559 Q-Who was the wife of Joseph Smith the president of the church? A-Yes sir.

560 Q-And she was also the President of the society? A-Yes sir.

561 Q-And Elizabeth Ann Whitney,who was the wife of N.K. Whitney was she not? A-Yes sir, I think so.

562 Q-And Sarah M. Cleveland,a counsellor to the president of the society? A-Yes sir,so it states there.

563 Q-And Eliza R. Snow the Secretary of the Society,-you know her do you not? A-Yes sir.

564 Q-You know all these ladies whose names I have read here,did you not? A-I believe so,

565 Q-Now could any such an order of mariage existed in the church at that time without the knoeledge of the men who signed the certificate to which I called your attention a little while ago,or of the ladies who signed the certificate I have last read,and whose names I also read to you? A-What is that?

566 Q-I say could any order or rule or practice of marriage have existed in the church different from the rule or order prescribed in the book of doctrine and covenants at that time different

in any respect from the rules laid down in the book of doc-
trine and covenants at that time in force of use, which was the
edition of 1835 I, believe, without the knowledge of the men
and women who signed these certificates? A-Not publicly there
could not have been

567 Q-Could there have been privately? A-There might have been private
ly.

568 Q-To their knowledge? A-No sir, not to their knowledge.

569 Q-Then you say that up to the first day of October 1842, there was
no such a system taugh or practiced openly, or secretly to
your knowledge? A- No sir, Not to my knowledge up to that
time.

570 Q-Then when you say in your direct examination that Joseph Smith
taught and practiced it in 1842,-? A-Did I say '41(???).
If I said that I did not intend to say it.

571 Q-If you said that you meant a date subsequent to this ~~death~~ time,-
A- [illegible]
that is at a date subsequent to the death of Joseph Smith,
but as to the exact dates as I have stated before I cannot
say.

572 Q-Did you not say you heard him teach it? A-Well I did hear him
teach. He certainly taught it before his death.-

573 Q-Where did you hear him teach it? A-I heard him teach it,-he
taught it to the quorom of twelve apostles, and he taught it
to other individuals as they bear testimony. I know he taught
it to us but of course,-

574 Q-Now what time did he teach it to the twelve apostles,-what is
the first date that you can fix Mr Woodruf, if you can fix any
date,-that he taught it to them? A-Well he taught it to
members of the twelve personally according to their testimony

575 Q-Well I am not asking you for their testimony Mr Woodruf,-I am
asking you for your own personal knowledge? A-Well it was
in '44 that he taught me and others. I know he taught me and
of course as to the rest I have the testimony of others for
that, but that of course I do not know of my own knowledge,
but they were reliable truthful men and and what they told me
was the fact beyond doubt.

576 Q-What have you by which you can fix the date as being in 1844?
A-Well in his address to the quorom of twelve apostles, when
he visited us, he would teach that.

577 Q-How often would that occur? A-Oh frequently for we were with
him,-I don't know how many months,-but probably as much as
six months,-of course I cannot tell the dates without refer-
ing to certain records, but it was nearly six months, and he
spoke of it frequently. I could tell the dates by reference
to certain records I have, but from memory I cannot.

578 Q-~~Where~~ these address he delivered to the quorom published?
A-No sir. they were not published,

579 Q-Were all the quorom present? A-Yes sir, I think they were all
present. Well I say they were all present. But I don't know
that they were all there, but they were nearly all there.
William Smith I think belonged to the quorom at that time, and
he was not present.

580 Q-Was Joseph Smith at that time teaching the quorom on the order
of patriarchial marriage? A-Well he taught it to us as a
principle amongst other things.

581 Q-Did he teach, or do you refer to the Abrahamic restoration?
A-What is that?

582 Q-Do you understand or did you understand that Joseph was teaching
you the "Abrahamic Restoration"? "-He was teaching us the

same principle that Brigham practiced or taught afterwards. Is that what you want to know?

583 Q-Yes sir? A-Yes sir,it was the same.

584 Q-What was that? A-It was what was termed the Abrahamic principle of marriage,or the patriarchial system of marriage.

585 Q-Did Abraham practice the plural order of marriage? A-Well I was not with him,and I do not know.

586 Q-Well from the teachings of the bible what do you say as to that? A-I consider it so.

587 Q-Did he have more wives than one? A-I think he did.

588 Q-You think he did ? A-Yes sir.

589 Q-Can you name them? A-Well I think that it is represented there that Hagar was his wife,and that Sarah was also his wife,-Sarah was his wife first and then he took Hagar.

590 Q-Are you willing to swear that it is represented in the bible that Hagar was Abraham's wife? A-I think that is the way it is represented.

591 Q-Are you willing to swear that in any place in the bibble it is represented that Hagar was the wife of Abraham.-whether it is so stated in the bible in any place? A-Well my view of it is that she was his wife,-that she belonged to him as his wife,and we know that he had posterity by her. He had a son by her,and you can call it what you please.

592 Q-Well my question is what does the bible call it Mr Woodruff? A-I don't recollect.

593 Q-Don't it call her the bond woman? A-It might,and probably does call her that.

594 Q-Is that what you mean by a wife? A-Well I consider that if a man has a woman married to him,that she is his wife,and you can call it a bond woman or what you please,-but I considerr that if she lives with him in the relation of a wife,and he has posterity by her that she is his wife,it matters not what her previous condition of servitude or other condition may have been. Now that would be my view of it.

595 Q-Do you think he was married to Hagar rightly? A-Well rightly or not I could not say. It is not for me to pass on that,anything I might say would merely be my opinion. but I will say that that Abraham was a good man,and he would hardly take her without he had a right to her,or liberty from the Lord to take her.

596 Q-Well now is it not a fact that all the right he had to her,and all the marriage ceremony there was,was simply and solely the giving of Gagar to Abraham by his wife Sarah? A-That was the patriarchial order of marriage and I do not know what the ceremony was,for there is not published about it.

597 Q-Does the bible not teach that Sarah called it wrong after the,-after she done it,-does not the bible teach that she repented and thought she had done wrong? A-Well it seems that Sarah had her convictions about it,and was,or had some trouble apparently in regard to the matter. That is what I gather from my reading in regard to that transaction.

598 Q-Well let me refresh your recollection by reading the fifth verse of the sixteenth chapter of Genesis,-"And Sarah said unto Abr-aham,my wrong be upon thee;I have given my maid unto thy bos-om;and when she saw that she had conceived,I was despised in her eyes;the Lord judge between me and thee". You recognize that as coming from the bible? A-Yes sir,from the reading of it I should say it was. I think I have read that myself.

599 Q-Now I will read to you the twelth verse of the twenty first

chapter of Genesis,-"And God said unto Abraham,let it not be grievous in thy sight because of the lad,and because of thy bond woman; in all that Sarah hath said unto thee,hearkon unto her voice for in Isaac shall thy seed be called." Do you recognize that? A-Yes sir.

600 Q-Do you know what Sarah had said unto Abraham before that? A-I would only know from the reading of the bible.

601 Q-Well do you know from the reading of the bible what she said unto him? A-No sir,I say I could tell what she said by reading the bible,but at this time,and without reading it to refresh my recollection I would not know,and could not say what it was she said to him.

602 Q-Well don't you know that Sarah had told Abraham to cast out the bond woman? A-Yes sir,I think she did.

603 Q-That was Sarah's advice to Abraham? A-Yes sir.

604 Q-And the Lord approves it? A-Perhaps so.

605 Q-Then does this teach plurality of wives in Abraham's day? A-Well the principle descended from that time,and after Abraham's day they took more wives than one and it descended to us from that.

606 Q-Did Isaac have more wives than one?,and if so give me the names of them? A-Well Jacob did.

607 Q-Do you say that Jacob was Abram's son? A-No sir,not his son but the principle descended from Abraham,-that is the first we see of it,and it descended from Abram in that way.

608 Q-Did Isaac have more than one wife? A-We do not know.

609 Q-If Isaac had more than one wife be kind enough to state who they were? A-I say that Jacob had more than one wife.

610 Q-Well was Jacob Abram's son?,-the President of a church,and here saying that Jacob was Abram's son? A-I did not say so sir,-I said that Jacob was Isaac's son. Jacob was Isaac's son and he was Abram's grand son.

611 Q- Well that is different? Q-There was any difference at all between us on that question Mr Kelley.

612 Q-Well now you say,-Is it not a fact that according to the bible Hagar was only a bond woman? A-Well of course you have to take what the bible says on that point,and that is what it says on that subject.

613 Q-Can you now give me that,-the name of any other wife that Abram had beside Sarai? A-Well of course Hagar is the only one besides Sarai that he represented,-

614 Q-Well now she is represented not as a wife,but as a bond woman is n't she? A-Well of course he,-she is represented as a bond woman,but then he took her a s a wife,and raised posterity by her,-he raised a child by her.

615 Q-Is not Keturah called his wife? A-I don't know that she is.

616 Q-Well now is it not a fact,and true,when your attention is called to it,that Keturah was also Abram's wife? A-I think so.

617 Q-Well is it not a fact according to the bible,that Keturah was Abram's wife? A-Yes sir,I believe it is.

618 Q-And he married her three years after the death of Sarai? Did not he do that according to the account that is given of it in the bible? A-Yes sir.

619 Q-Well what conclusion would you draw from that Mr Woodruf? A-I woul draw the conclusion that it is as it is stated there in the bible of course.

620 Q-Well does it not show Mr Woodruf that Abram was not a polygamist,-

but on the contrary was a monogamist? A-Wellll can't say that it does for it depends on other things to a very great extent

621 Q-Depends on what? A-It depends on the jugement of men or people with regard to it.

622 Q-Well from a bible stand point would not that be true? A-Well that would probably be your jugement,but I have always looked upon Hagar a in the sense of a wife,and I do that beause he took her and lived with her in the sense of a wife.

623 Q-Then when Joseph Smith was teaching about the Abrahamic covenant,he could not have been teaching plurality of wives? A-I don't know whether he was teaching that alone or not. That was simply an illustration,for the principle of plural marriage was revealed to him.

624 Q-Well now when he was teaching the twelve apostles as you say he did about the Abrahamic covenant,could he have been teaching the doctrine of a plurality of wives,when the record of that covenant shows that the Lord was displeased with that kind of business?

By Mr Hall,-"We object to every question that has been asked the witness in regard to Abram on the ground that it is incompetent,irrelevant and immaterial,and not proper cross examination and move that all the testimony of the witness on that point be stricken out from the record for the same reasons".

A-Abram has been referred to always,-that is for a long time of course,as being,-

By Mr Zolley,-

625 Q-It is a false basis however,is it not,taking the bible theory to say he was a polygamist? A-Who?

626 Q-Abram? A-Yes sir he has been accounted such.

627 Q-Well that is a false theory taking the bible itself for it,is it not? A-Well I don't look at it so.

628 Q-You would not call a bond woman a wife would you? A-Yes sir, under some circumstances I would.

629 Q-What would be the circumstances under which you would call a bond woman a wife? A-Well that would depend on whether she was received as a wife or not.

630 Q-The second wives of such men as had plural wives who belonged to your church here in Utah,-at the present time,-or at any time in the past,who have belonged to your church here in Utah,-were not called bond woman were they? A-No sir.

631 Q-You did not look upon them as bond women? A-No sir.

632 Q-You looked upon them as wives? A-Yes sir.

633 Q-You believe in the book of Mormon don't you Mr Woodruff? A-Certainly.

634 Q-And your church also believes in the book of Mormon,-the church here in Utah of which at the present time you are the President? A-Yes sir.

635 Q-You do? A-Yes sir,we receive the Book of Mormon as a part of our faith.

636 Q-Well let me read to you from the Book of Mormon,-Exhibit B,on page one hundred and thirty two,chapter two,-"Behold,David and Solomon truly had many wives and concubines,which thing was abominable before me,saith the Lord". Have I read that correctly? A-Yes sir,the passage has been correctly quoted.

637 Q-Well do you count that as a condemnation or approval of polygamy A-You have not read the whole of it?

638 Q-Yes sir I

connected with it that you have not read. There is something connected with it upon that subject that you have not read.

639 Q-Well that I read was paragraph twenty four,and now I will read paragraph twenty five,which is as follows,-"Wherefore,thus saith the Lord,I have led this people forth out of the land of Jerusalem,by the power of mine arm,that I might raise up unto me a righteous branch from the fruit of the loins of Joseph". What do you say to that? A-Well there is many matters connected with that that would have to be ~~xxx~~ read and construed in connection with ~~xxxx~~ it.

640 Q-Well that is the full sentence Mr Woodruf that I have read to you? A-Please let me look at that(taking exhibit B).

641 Q-I read to you the full sentence,-paragraphs twenty four and twenty five? A-I think it all aught to be read in connection,-

642 Q-Have you read it? A-Yes sir,many a time.

643 Q-Well now from the reading do you say that the Lord approved or condemned the practice of polygamy in David and Solomon. A-Well he condemned these men for the course they pursued in that matter. He seems to have condemned them there,or to have condemned the course they pursued in that matter.

644 Q-Now the twenty sixth verse is this,-"Wherefore I the Lor God will not suffere that this people shall do like unto them of old". A-Yes sir.

645 Q-What does the word "old"refer to there? Does it refer to David and Solomon? A-It seems to refer to them.

646 Q-It goes on in the twenty seventh verse and says,-Wherefore my brethern hear me, and hearken to the word of the Lord;for there shall not any man among you have save it be one wife, and concubines he shall have none?" A-Yes sir.

647 Q-Ihave read that correctly? A-Yes sir,that is correct.

648 Q-That is the law as it was laid down in the days of Davivd and Solomon? A-Well it seems to apply to them.

649 Q-Well don't it apply to them? A-Yes sir. It seemed to be the law of God to them,but go on,-read the next sentence.

650 Q-Well the sentence which I have just read is that they should have but one wife,and no concubines? A- Yes sir.

651 Q-Well the next verse which is verse twenty eight on the same page and in the same chapter is,-"For I,the Lord God,delighteth in the chastity of women,And whoredoms are an abomination before me. Thus saith the Lord God of Hosts". I will read on the balance of the chapter,-"Wherefore the people shall kepp my commandments saith the Lord of Hosts,or cursed be the land for their sakes.

For I will saith the Lord of Hosts raise up seed unto me,I will command my people,otherwise they shall hearken unto these things.

For behold I,the Lord have seen the sorrow and heard the mourning of the daughters of ~~xxx~~ my people in the land of Jerusalem;yea and in all the lands of my people,because of the wickedness and abominations of their husbands.

And I will not suffer saith the Lord of Hosts,that the cries of the fair daughters of this people,-which I have led out of the land of Jerusalem shall come up ~~xxxxxxx~~ unto me against the men of my people,saith the Lord of Hosts.

For they shall not lead away captive the daughters of my people,because of their tenderness,save I shall visit them with a sore curse,even unto destruction;for they shall not commit ~~like them~~ as whoredoms like them of old,saith the Lord of Hosts.

And now behold my brethern,ye know that these commandments were given to our Father Lehi;wherefore ye have known them before,and ye have come under great condemnation;for ye have done these things

have come under great condemnation;for ye have done these things which ye aught not to have done.
Behold ye have done greater iniquities than the Lamanites, our brethern, You have broken the hearts of your tender wives,and lost the confidence of your children because of your bad example before them,and the sobbings of their hearts ascend up to God against you. And because of the strictness of the word of God,which cometh down against you,many hearts died,pierced with deep wounds".
Now I have read the whole of it,and I do not think there is much consolation in it for you. Now I will ask you if more than one wife,and having concubines would be a whoredom,or whoredoms under this chapter? A-Well I don't know about that what I would say would be my opinion ~~herein~~,but as far as it goes I will say that it would ~~be~~ in my opinion from the way it is versed there.

652 Q-Well now we'll go through the next paragraph or verse,-"Wherefore this people shall keep my commandments saith the Lord of Hosts or cursed be the land for their sakes". Now the thirtieth paragraph 16,-"For if I will saith the Lord of Hosts,raise up seed unto me,I will command my people,otherwise they shall hearken unto these things". Now what is meant by that? A-It means that the patriarchial order of marriage was practiced among them,but if the Lord said he would raise up seed unto his people he would command them to that effect.

653 Q-Well now did the Lord at this time want to raise a righteous seed? A-Probably.

654 Q-And he commanded them to do it by one wife,did he not? A-Yes sir I understand it so.

655 Q-And is that not what the book says and means,when it says that he will command them if he wants them to raise up seed? A-Yes sir.

656 Q-That he will command them to raise it up by one wife? A-Yes sir That is my understanding of what it says there,but you must remember that Joseph Smith claimed that he was commanded by the Lord,-

657 Q-Well that is not answering my question. I did not ask you anything about what Joseph Smith claimed,and I move to strike the answer from the record on the ground that it is not responsive to the question asked the witness, A-Well that is what he claimed,-that he had a revelation from God commanding these things.

658 Q-Well now if I understand you correctly you said that the Times & Seasons was the church paper of the church during the term of its existence? A-The church paper?

659 Q-Yes sir? A-Yes sir for a large part of the time it was published by the church,but it was not regarded and was not a revelation to the church.

660 Q-Now I don't mean that,-I simply asked up if it was not published by the church? A-Yes sir.

661 Q-And you were connected with its publication for some time? Yes sir. I was connected with the business part of it,-I look after its temporal affairs you might say. John Taylor was its editor.

662 Q-He was one of the twelve apostles? A-Yes sir.

663 Q-John Taylor was? A-Yes sir.

664 Q-In 1844? A-Yes sir.

665 Q-I want to read to you now from the article in the Times & Seasons of the fifteenth day of November 1844,on page seven hundred and fifteen,and I will read the whole paragraph to you Mr Woodruf,-

Counsel for the defendants objects to the question asked the witness

on the ground and for the reason that it is incompetent for the reason the book from which counsel for the plaintiff proposes to read an extract to the witness has never been properly identified to make it competent testimony, or anything offered in evidence there from.

666 Q-That is a copy of the Times & Seasons Mr Woodruff A-It says so.

667 Q-Well is it? A-Of course I suppose it is.

668 Q-Well do you know whether it is or not? A-It looks to me to be a copy of it. It looks like it. It seems to me to be a copy I have no doubt in the world but what it is a copy of the Times & Seasons.

669 Q-I will read it to you,-The saints of the last days have witness-ed the out goings and incomings of so many apostates that nothing but truth has any effect upon them. In the present instance after the sham quotations of Sidney and his clique, from the Bible, Book of Mormon, and Doctrine and Covenants, to shell off under the "baneful splendor" of "spiritual wifery" which is brought under the account as graciously as if the law of the land allowed a man a plurality of wives, is fiendish, and like the rest of Sidney's revelations just because he wants "to go to Pittsburg and live" Woe to the man or men who will thus willfully lie to injure an innocent people. The law of the land, and the rules of the church, do not allow one man to have more than one wife alive at once, but if any man's wife die, he has the right to marry another, and to be sealed to both for eternity; to the living and the dead. There is no law of God or man against it. This is all the spiritual wife system that ever was tolerated in the church, and they know it". Now that is dated November fifteenth 1844? A-Yes sir.

670 Q-Do you recognize that? A-How is that signed up?

671 Q-What is that? A-Who signed that,-is that communication signed and if so by whom?

672 Q-Well do you recognize that? A-I don't remember anything about it, but if I knew who it was signed by I could possibly,-I might remember something about it.

673 Q-That is signed by "Old man of Israel"? A-There is no name given.

674 Q-That is the only name that is given,-"An old Man of Israel"? that is the only signature? A-I don't remember anything about it at all.

675 Q-Do you remember what name,-"An Old Man of Israel?" A-No sir.

676 Q-You don't? A-No sir I don't remember anything about it at all. There is nothing strange about that though, for there was a great deal published in that publication at that time that I was connected with that I did not know anything about. I can't at this time,-fifty years after remember everything that was published in that publication.

677 Q-I will ask you if you remember the editorial comment by John Taylor, who was at that time one of the leaders of the church, published in that publication, which appeared in the Times and Seasons, signed by yourself, under the head of "Union and Peace at Nauvoo",-well I will not read the whole of it, for what follows has no reference to the communication of "An Old Man of Israel",-but it is further down, where it is said editorially,-"For the communication of an "Old Man of Israel", and the letter of elder Addison Pratt from the Islands of the Pacific ocean, we bespeak a hearty welcome. They are coming". Now do you recall that? A-No sir, but I would like to look at that a moment.

678 Q-You read the Times and Seasons at that time did you not?
A-(Witness takes the book referred to) Yes sir. (after examination of the book reffered to as the Times and Seasons

in his hand,and answers)I was looking to see if there was any signatures to that.

679 Q-Well is there any signature to it? A-There is no signature to either of them that I recognize.

680 Q-Well now I will repeat my question again,and ask you if you did not read the Times and Seasons at that time? A-I do not know sir". I do not know sir whether I did or not.

681 Q-You were not connected with it at that time? A-No sir that was after I left it.

682 Q-Well you were a subscriber to it? A-Yes sir.

683 Q-And have a copy of it for that year? A-Yes sir,I should have but I don't know that I have postively.

684 Q-Now this was the church paper at that time,-that is the Times & Seasons was the church paper at that time,-in that year,-1844? A-It was published by the church.

685 Q-And publish so by an apostle in the church too,wasn't it? A-Yes sir,so long as John Taylor was editor of it it was.

686 Q-Wel one of the apostles in the church held the editorship of that publication from long before the time of the death of Joseph Smith up to the time that its publication was discontinued,didn't he? A-Well I don't know,but I suppose it is like-ly that such was the case. The paper shows for itself,and I cannot answer as to that sir. I know that I left the work of the paper some time before it was discontinued. I think I left the paper some time before the death of Joseph Smith.

687 Q-You think that you left the paper before the death of Joseph Smith,-that is the Times & Seasons? A-Yes sir,I think I did, I am quite postive I did,however the paper will show for itself when the time was that I left it.

688 Q-I will ask you Mr Woodruff the doctrine about which you have been testifying,prior to this time,was not simply and solely the doctrine of sealing? A-The doctrine of sealing?

689 Q-Yes sir,and was that not the doctrine that was taught to you by Joseph Smith,and that doctrine alone? A-Well you might call it sealing, because all persons are or were sealed. When I look a plurality of wives they were sealed to me,so you can call it what you please.

690 Q-Will you answer my question Mr Woodruff? A-I have tried to do so.

691 Q-No sir,you appear to be attempting to evade the answer,-I will ask you again if it is not a fact that what Joseph Smith taught was sealing,and not a plurality of wives? A-No sir.

692 Q-Didn't he teach it as sealing? A-No sir,-at least he did not in my hearing.

693 Q-Did not he teach this and this only,-that if a man married and his wife died,he was entitled to take another wife,and that he could be sealed to each wife,-to the first wife for time and eternity,and the second wife for time,-is that not it,-is that not what he taught? Is that not the teaching of Joseph Smith up to the time of his death and that only? A-No sir. He taught the plurality of wives.

694 Q-Didn't he teach this that a man could be sealed simply to his own wife? A-Yes sir.

695 Q-Do you say it is? A-Yes sir. That he could be sealed simply to his own wife? ~~A~~

696 Q- Yes sir? A-I don't think it is sir. That is the doctrine that is there. That revelation of course is on the plurality of wives

to his own wife,-his first wife,-but that did not prevent other wives from being sealed to him. There is nothing in that revelation on plural marriage that deprives a man from the right of having his wife sealed to him.

687 Q-Were you taught in Nauvoo by Joseph Smith that in order for a man to be exalted in the hereafter,that he must have more wives than one? A-What is that?

688 Q-I asked you if Joseph Smith had ever taught you at Nauvoo or any where else during his life time,that in order for a man to be exalted in the hereafter he must have more than one wife? A-I don't know that I ever heard him make use of that expression,or use that form of expression.

689 Q-Were you taught in Nauvoo or any where else by Joseph Smith at any time,that a woman could not be exalted in the hereafter unless she was married? A-Unless she was married?

700 Q-Yes sir? A-No sir,I don't know that I heard him teach that doctrine particularly. There is the revelation and it speaks for itself if you wish to know what he taught. That is the revelation he taught and you can see it,-it speaks for itself.

701 Q-What is that revelation? A-I can't repeat that revelation but it is in the Book of Doctrine and Covenants,and it speaks for itself so it is not necessary for me to state its contents, even if I could do so.

702 Q-Does that revelation contain the teachings of Joseph Smith,or does it touch the same things in reference to the doctrine of plural marriage that Joseph Smith taught. Is that what you mean to be understood as saying Mr Woodruff? A-Yes sir that is the revelation,and the principles of that revelation were taught to me.

703 Q-By whom in the first instance? A-By Joseph Smith.

704 Q-Where is the original of that revelation if you know? A-I can't say. No sir. I do not know where it is.

705 Q-Did you ever see it? A-No sir I don't know that I ever did.

706 Q-You don't know that you ever saw the original of that revelation? A-No sir,but I do not believe that I ever did see it.

707 Q-Did you ever see a copy of it during the life of Joseph Smith? A-The original?

708 Q-Yes sir? A-I could not say whether I did or not.

709 Q-Well I will repeat the question,-Did you ever see a copy of it during his life time? A-I say I cannot say whether I ever did or not,-that is the original. There was a copy of the original made,and I don't know that I ever saw that during his life time?. The original I never saw.

710 Q-Well now Mr Woodruff don't you know you never read that revelation during his life time at all? A-Well the principle of it I did.

711 Q-Don't you know right well that you never read it in any shape or form during the life time of Joseph Smith? A-I say I don't know,for I have read a great many things in my time that I cannot say from memory whether I ever read them or not. I can't remember everything I have read in the past.

712 Q-Well now as important a thing as that revelation on polygamy, you would certainly remember whether or not you had ever read that during the life time of Joseph Smith? A-I don't know that I would.

713 Q-You would certainly remember something about the time you had read it,and the first of your having read it?
A-I cannot remember if I did.

714 Q-Did you ever see a manuscript copy of it during his life time?
A-During the life time of Joseph the Prophet?
715 Q-Yes sir? A-I don't know.
716 Q-Have you ever seen one since? A-I donot know that sir.
717 Q-Did you ever see the one that came here to Utah,and purported to be a copy of the original? A-I don't think I did. I could not say,for I may have seen it,however I do not recollect.
718 Q-Has the church of which you are the President,got that in its possession,-that copy which purported or claimed to be a copy of the original? A-I do not know. I cannot say for I am no the custodian of the documents or papers of the church. They are in the hands of another party.
719 Q-They are not in your possession, or under your control? A-No sir another party has control and custody of them.
720 Q-Well who holds,or has control of these documents? A-They are in the possession of various ~~xxxxxxxx~~ parties,-the historian of the church has them more or less,-he has the control and possession of all that pertains to the keeping of the records of the church.
721 Q-Who is the legal custodian of the original manuscripts or copies of revelations in your church? The historian or some body else? A-Well I presume they are in various places. The historian I suppose has a portion of them,-that is the historian has access to the records, he has the records that pertain to these things or has access to it,and from that the church history has been written more or less.
722 Q-Does the Presiding Bishop hold any of them? A-I don't think he does.
723 Q-Does he have any of them? A-He has certain papers or records of course that belong to his office.
724 Q-Does the church secretary hold them? A-I think not.
725 Q-Does the librarian hold them? A-A-The what?
726 Q-The librarian,-the Church Librarian? A-He may have some of them,but I don't know,
727 Q-That is all you know about that? A-Yes sir.
728 Q-Do you know or concern who holds the original revelations that have been promulgated to the church here in Utah? A-There has been many revelations given to the church here,-
729 Q-If there has been but one,do you know who holds the original manuscript of that,-or do you hold it? A-Well it has been published,-
730 Q-I am not asking you about that,-I am asking you if you hold the original of that revelation? A-I don't know whether I have it in my possession now or not,but I have had it,-that is cor-rect.
731 Q-Do you hold the original of the revelations that were promulgated through Brigham Young? A-No sir.
732 Q-Or through John Taylor? A-No sir.
733 Q- Or through any President of the church since the death of Joseph Smith? A-No sir. Well Brigham Young and John Taylor were the only Presidents of the church,-you might say the only ones,since the death of Joseph,Smith-and they have had their own records,and their own documents. I published their revelations,-that is what I have received,-they have all been given to the world.
734 Q-But you don't know anything about the original manuscript of the revelations received by Brigham Young or John Taylor? A-No sir.
735 Q-Were you present here in Salt Lake City in August 1852 at the Conference? A-In 1852?
736 Q-Yes sir? A-At what time,-what was there special at that time

737 Q-It was at the time that this revelation on polygamy was presented to the church by Brigham Young? That is the time it was presented to the church at that conference in 1852 in August, for adoption? A-Well, Sir I could not say whether I was or not, but I think it is altogether probable that I was.

738 Q-Do you recollect the fact of that revelation being presented to a conference here in Salt Lake City by Brigham Young,-being presented to the church for its adoption by the people? A-I do not recollect.

739 Q-Do you recollect that at the time of that presentation there was a statement made by Brigham Young,that it was a copy of a revelation given by Joseph Smith,-that Emma Smith had burned the original,and that he had a copy,and he was the only man on earth that knew anything about it from the time it was given,to the time he was presenting it to the conference,or words to that effect? A-How is that?

740 Q-I put to you the question if you recollect that at the time that Brigham Young presented that alleged revelation to the conference,that he made a statement that it was a copy of the original and that the original had been burned by Emma Smith, and that he was the only man who had a copy of it,and there was no one on earth knew anything about the copy he had but himself,or words to that effect? A-I do not remember. I don't remember from memory.

741 Q-You were here in 1852? A-Yes sir,I was here in'52.

742 Q-And you traveled south with President Young in 1852? A-Yes sir, and I probably was at that conference.

743 Q-You were at that conference? A-I think I was,but there are things that I cannot remember very well.

744 Q-Do you remember Brigham Young making that statement that he had kept that revelation under lock and key,-a strong lock and key,and nobody knew anything about it except himself? Or that no one knew it was in existence but himself? A-No sir,I do not recollect hearing him make that remark.

745 Q-You don't recollect saying that at all? A-No sir, if he said that in my hearing I have forgotten it.

746 Q-Well, did he present a copy of it to the church? A-I do not recollect.

747 Q-Do you recollect a sermon preached by Orson Pratt on the forenoon of that day,on which it was presented,in which he stated that a revelation would be presented that after-noon,-and that a certain revelation would be presented that day in the after-noon,and speaking of it as a revelation which taught new ground that had never been taught or spoken of before. Don't you recollect that? A-I have no recollection and do not remember his sermon. I have no recollection at all about his sermon or anything that he said at all.

748 Q-Don't you remember in that sermon that he said he was to break new ground on which he had never spoken before? A-No sir, I don't remember anything about it.

Counsel for the defendants objects to the question on the ground that it has been asked repeatedly to the witness,and the witness has denied knowing or remembering anything about the matter referred to which he is being so persistently interrogated,also on the ground that it is not cross examination.

749 Q-What do you say to that Mr Woodruff? A-I say that I can't remember anything about it. These are things that happened away nearly forty years ago, and I can't remember things that were done on certain specific days, for I cannot remember as a matter of memory how this was, -I cannot remember what was said or done by this or that party.

750 Q-Well sir I will not confine you to a certain day? I will confine you to that conference that was held in August 1852? A-I am speaking of that conference.

751 Q-I mean now to mark certain matters that were said and done at that conference? A-Of course if I had those dates before me, the transactions that occurred there, if I was present at the time of course it might refresh my memory on that point. If I had known that these things would be required of me of course I could have refreshed my memory on them, for I could have looked up and searched my journals and see what was going on at those times, but to attempt to give an answer concerning those matters from my memory solo I cannot undertake to do so.

Mr Hall,-We object to each and every question asked the witness relative to the conference of 1852 on the ground that it is incompetent, irrelevant and immaterial, and not proper cross-examination, and now we move to strike out the answer of the witness to the questions recording that subject for the same reasons.

752 Q-You have read the sermon of Brigham Young as published in the Journal of Discourses have you not? A-I have read some of them.

753 Q-Have you got them? A-They are in our libraries I suppose.

754 Q-They are considered correct as published are they not? A-I think so.

755 Q-They are published by your church, and are correct? A-Yes sir they are published by our church, and they are correct I suppose in so far as he had a chance to correct them. Every man has to correct his own discourses, or should do so if he has a chance.

756 Q-He was a corr of ideal reporter? A-Well sir we have had a good many of them. There was a reporter here for a while. I don't know the number of them we had, but we had quite a number of them. There was here for quite a while. I don't know what all their names were.

757 Q-Well sermons that were reported by G.D. Watt were considered as reported correctly, were they not? A-Well so far as the speakers had the opportunity of correcting them, they were.

758 Q-That is they were taken down by the reporter at the time they were delivered, and copied by him, and then presented to the speaker for him to correct them? A-I suppose so. That has been the order generally.

759 Q-So that when they were found in the Journal of Discourses they are supposed to be correct are they not, -when they are found in the Journal of Discourses they are taken to be correct are they not? A-I suppose so, as a general thing.

760 Q-You know your own sermons were correct as they appeared in the Journal of Discourses? A-I know some of them were published there, but I have not read them for a good while.

761 Q-Well as published they are correct are they not Mr Woodruff? A-Well I suppose they are. They are where we have a chance to correct them. Sometimes we don't have that chance, but as a general thing we calculate to correct them our selves.

762 Q-Then Mr Woodruf on the 15th day of November 1844, there was no marriage ceremony governed the church as a church, except the one

publishing in the 1835 edition of the book of doctrine and covenants? Is that not the fact Mr Woodruff? A-Not that I know of.

765 Q-That was the only law on the question of marriage that was in the church? A-That was all the law on the question of marriage that was given to the body of the people. Of course as I have said before,and as others also have said,as I understand it,there were marriages that were performed by the Prophet.

766 Q-Now I will ask you Mr Woodruff,-I will ask you why the church of which you are the President,-in the publication of the book of Doctrine and Covenants,-in the edition of 1876 for in stance,-eliminated from that section,-from that book I should say,the section on marriage as found in the 1835 edition,and inserted the editions of the book of doctrine and covenants published up to the 1876 edition,and inserted in lieu of that section on marriage the revelation on polygamy dated July 12th 1843? A-I don't know who published that,or how it was done. It was done by the authority of whoever presided over the church I suppose.

767 Q-Who was the president of the church in 1876? A-Brigham Young was President at that time. I think it was President Young at that time,or was he dead.

768 Q-In 1877 he died? A-Yes sir,I think it was President Young

769 Q-Now can you tell why the section on marriage that had always been in the book of doctrine and covenants up to that time, or up to that date was eliminated from it,and the other inserted in lieu of it? A-I cannot.

770 Q-You can't state why that was done? A-No sir I do not think I can give an answer to that question. It was done as I have stated under the direction of President Young,or under his administration,and I cannot state why it was done.

771 Q-Was it not done because one was in conflict with the other? A-I don't know that I can state why it was done,but I have been informed,-I have been informed that the doctrine as put into the book of doctrine and covenants,-formerly the old doctrine was put into it,-that is into the book of doctrine and covenants,-by Oliver Cowdery,and was represented as being contrary to the wishes of Joseph Smith,but I couldn't swear that that was the fact.

772 Q-When did you learn about that? A-Well I can't say,but it was a good many years ago.

773 Q-Was it during the life time of Oliver Cowdery and Joseph Smith? A-No sir.

774 Q-I mean did you hear that during the life time of Oliver Cowdery and Joseph Smith? A-No sir.

775 Q-Don't you know it was in the 1835 edition of the book of doctrine and Covenants,and that after it was published,it was during the life time of Joseph Smith presented to the church on several different occasions,and was adopted as a book to be the law and rule of the church with that in it? A-No sir,I don't know it for I was not present.

776 Q-Were you present at the conference of 1837 in the temple at Kirtland? A-No sir,-yes sir I was in 1837.

777 Q-You were there in 1837? A-Yes sir,but I wasn't in 1835 I don't think. I don't know though as to 1835 and '76

778 Q-I mean at the time Joseph Smith placed the three books one upon the other,-the bible,the book of Mormon and the book of Doctrine and Covenants,and presented them to the church to be voted upon? A-That was not in '37.

779 Q-To be voted upon as containing the laws of the church? Now do you say that was not in '37,- A-That was in'37,-No I don't think

that was in 1837.

778 Q-Well when was it? A-It was in '35 I think. I think it ws in the winter of '35. I think it was then,but of course I can tell by looking at the book I think.

779 Q-That was the time you think it was done? A-Yes sir,but I was not there. That is simply my understanding of it.

780 Q-But the book if it had been published and bound ,-and presented in the temple at Kirtland in 1835 and afterwards,-that was when the books,-first I will ask you if you remember his placing the books in that way,and presenting them to the church for adoption? A-What way.

781 Q-Placing the books on top of each other in the manner I have indicated,and presenting them to the church, for its acceptance? A-I do not remember for the reason that I was not present. I was absent at that time.

782 Q-I refer to the circumstance of his doing so at the temple in Kirtland? A-No sir,for I say I was not present at that time, but I have heard it stated he did so.

783 Q-Do you not remember his doing the same thing afterwards at Nauvoo,Illinois? A-No sir I do not.

784 Q-You do not? A-No sir.

785 Q-Did you not usually act as clerk at the meetings at Nauvoo when you were present,-that is take notes of what occured at these meetings? A-Oh no sir.

786 Q-You didnot? A-No sir I did not act as clerk. I was not the reporter at all at these meetings,-so to speak,-but I usually took notes briefly of the sermons and whoever spoke,-of the sermons of Joseph Smith,and whoever spoke,-I took brief notes of those things as a usual thing,but I did not act as clerk or reporter.

786½ Q-You did not act as a clerk? A-No sir.

787 Q-Do you remember of a meeting in the Bowery not very long before the death of Joseph Smith,-a meeting in the Bowery at Nauvoo, not very long before the death of Joseph Smith? A-I cannot say.

788 Q-Do you remember anything about that? A-Before answering that question I would want to know the date of it. If I had the date possibly I might remember it if there was such a meeting,and you would tell me something of the circumstances that occured there. The year and the date in the year,is what I want to know.

789 Q-Well it was in the early part of 1844 or the last of '43,-probably it was in the early part of 1844,at the time when he brought his son to the stand with him? A-No sir I never saw that day I never saw the time when he did that,and have no knowledge of it.

790 Q-Do you testify that you never at any time saw him bring his son to the stand with him? A-I never did.

791 Q-You never did on any occasion? A-I never did.

792 Q-You have no recollection of that whatever? A-No sir,I will say that there never was such a thing done when I was present,and I speak that way for the reason that if there had been such a thing occured when I was present, I would have remembered it.

793 Q-Do you say that you never saw his son come to the meetings with him? A-No sir.

794 Q-You never recollect seeing his son there with him at all? A-No sir,I do not. I don't remember of ever seeing young Joseph come there with him.

795 Q-At no time? A-No sir,I never saw him bring his son there with him in my life.

796 Q-You knew his son,-the one you have designated as "young Joseph?"
A-Yes sir,I knew his son. I saw him many a time.
797 Q-There at Nauvoo? A-Yes sir.
798 Q-You did? A-Certainly.
799 Q-Now sir you say you were baptized in 1832? A-Yes sir, No sir it was in 1832.
800 Q-Well then in 1832,-Now I will ask you if you were baptized a second time in Nauvoo? A-Not that I know of.
801 Q-I mean were you baptized for yourself? A-I do not recollect.
802 Q-Were you baptized after you came here? To Salt Lake City? A-Yes sir Oh yes sir,we were baptized after we came here as pioneers. Yes sir we were all baptized,-as pioneers after we came here. It was an ordinance that was repeated several times after we came here as pioneers into a new land,for we all felt we thought it would be right and proper for us to go and be baptized,and so we were all baptized,-the presidency of the church,the twelve apostles,and the pioneer crowd,-we were all baptized for the reason as I have stated,that we felt it was proper and right that we should be baptized.
803 Q-What command were you operating upon the first time you were baptized in 1832? A-I was baptized for the remission of sins,and I was not baptized into any covenant whatever,in particular,-only I was baptized as all were the future the church ~~for the remission of~~ of sins,as the ordinance is described.
804 Q-You were baptized in the gospel covenant,were you not? A-In 1832?
805 Q-Yes sir? A-We were baptized in the name of the Father,for and the Holy Ghost,by a man having authority as we understood it from Jesus Christ to baptize.
806 Q-And was not that a man under the gospel covenant? A-We was not thinking much about the gospel or a covenant at all, of the ordinance. There had been and is of course a proper baptism for the living,and so for the dead,and when I was first baptized I was baptized for myself.
807 Q-Well is that baptism out of the gospel ordinance? A-Yes only it is.
808 Q-What was it for then? A-It was for the remission of sins.
809 Q-And you obeyed it on the hearing of the preaching of the word? A-Yes sir.
810 Q-You did? A-I did.
811 Q-Was it a new covenant you were baptized in as spoken of in the seventh chapter of Hebrews by Paul? A-There was nothing said about any covenant,-It was just the testimony of the person baptized to the effect of believing the gospel,and on the confession of that belief the person is led into the water,and baptized in the name of the Father,the Son and the Holy Ghost by one having the commission of Jesus Christ to perform baptism, and he would answer the one to be baptized in the water,and say "I baptize you in the name of the Father the Son and the Holy Ghost, Amen". Now that was all there was to it.
812 Q-Is not the gospel the new covenant in contra-distinction to the old covenant in force under Moses,-or the Mosaic law? All supposes it is, for the law of Moses and the gospel as taught by Jesus Christ are different one from another. One worked under a different dispensation from the other.
813 Q-Now I want to read for the purpose of refreshing your recollection

section forty seven of Exhibit "E",it is to be found on page one hundred and seventy eight,and the portion of the section I shall read is paragraph one. The exhibit referred to as Exhibit "E" is the 1835 edition of the book of doctrine and covenants,and the revelation was given in April 1830.It is as follows,-"Behold,I say unto you that all old covenants have I chosen to be done away in this thing,and this is a new and everlasting covenant; even that which was from the beginning,-Therefore although a man should be baptized an hundred times,it availeth him nothing;for you cannot enter in at the straight gate by the law of Moses,neither by your dead works;for it is because of your dead works that I have caused this last covenant and this church to be built up unto me;even as in days of old. Wherefore enter ye in at the gate,as I have commanded,and seek not to counsel your God,x Amen". Now I have read the whole of that section for there is only one paragraph in it. Now you recognize that as teaching that the gospel covenant was the new covenant?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial and not cross examination.

A-I have no objection to answering that question. or to the law laid down there,for it is a new and everlasting cobenant, a covenant that God has made in these last days,by sending a prophet,seer and revelator who has delivered the gospel and introduced the church and renewed the work and the gospel as it was in the days of Christ and the apostles,and I view that as being what it is termed the covenants for the generations since the days of Paul and the apostles that is referr-ed to there.

814 Q-Then you view this as being a new covenant? A-Yes sir.

815 Q-And you were baptised after that revelation and into this new covenant at first? A-Yes sir. I told you that I was baptized,and I considered it a new covenant.

816 Q-Now when you came to Salt Lake did you broken your covenant so that you had to be re-baptized? A-No sir,not that I know of.

817 Q-You had not broken the covenant into which you were originally baptized? A-Not that I am aware of,but let me say that there is no covenant that I know of,nor any law that I know of which says that a man shall not be re-baptized.

818 Q-Now was not Brigham Young,and all the twelve apostles,and all President Youngs counselors,all the elders of the church, and all other persons members of the church,-re-baptized after coming to Salt Lake into,-? A-Into what?

819 Q-Both men and women,were they not re-baptized? A-Well you said "re-baptized into some thing",and I want to know what it was

820 Q-Well lasledx you whether or not they were all baptized? A-Yes sir.

821 Q-What was the occasion of that action? A-Well we were all baptized as pioneers,-we were all re-baptized as pioneers.

822 Q-Well were not the ladies baptized also? A-No sir,for there were no ladies with us.

823 Q-Well when they came here were they not baptized? A-Not that I know of.

824 Q-Do you say that the women have not been re-baptized sine you came west? A-They may have been afterwards,but not at that time for there was none with us.

825 Q-You have been baptized the secon time since you came here? A-Yes sir,I have been haptized hundreds of times I might say.,but it

was for the dead.

826 Q-Well I am not talking about baptism for the dead now? I mean for yourself? A-No sir,I don't know that I have.

827 Q-Were you not re-baptized in the reformation? A-Well I could not say.

828 Q-What is your best impression with reference to that? A-I cannot say,-perhaps I was.

829 Q-A great majority of the church were re-baptized during the reformation? Were they not? A-Perhaps they were.

830 Q-Now is not this revelation on the question of marriage introduced in the book of doctrine and covenants in the place of the original section on marriage,called a new covenant? A-What is that?

831 Q-Is not this revelation I say which has been inserted in the book of doctrine and covenants in lieu of the original revelation on marriage as it appears in the edition of 1835 of the book of doctrine and covenants,-is that not called a new covenant? A-It may be called that. I think it is or was called a new covenant.

832 Q-And was it not that covenant to which you were baptized,-into that new covenant? A-No sir.

833 Q-Was it not by reason of that revelation you were re-baptized? A-No sir.

834 Q-It was not,-do you swear it was not? A-It was not.

835 Q-Is that the new covenant spoken of in section forty seven of that book, the edition of 1835 of the book of doctrine and covenants?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it does not call for the best evidence,the book itself being the best evidence,and the question calls for an opinion of the witness.

836 Q-Do you answer to the same thing? A-I would like to hear your question again,for I do not comprehend your question.

837 Q-Well is that new covenant referred to in section forty seven of the 1835 edition of the book of doctrine and covenants? A-That does it say about it?

838 Q-Is it the same as the new covenant mentioned in the revelation on polygamy in the 1876 edition of the book of doctrine and covenants as published by the Mormon Utah Church of which you are the president the present time the head or president? A- I can't answer that question.

839 Q-Well I have read the check one to you,-the whole revelation for there is only one section in it,and I read it to you,and now I will read this to you? A-You are speaking of the new covenant of the patriarchal order of marriage?

840 Q-Yes sir. A-Yes sir.

841 Q-Well I will read the one in the 1876 edition of the book of doctrine and covenants,being the revelation on polygamy,per-haps three.

Counsel for the defendants objects to the question asked the witness for the reasons and on the grounds that it is not the best evidence,and not cross examination.

842 Q-"Therefore prepare thy heart to receive and obey the instructions which I am about to give unto you,for all those who have this law revealed unto them must obey the same" Now do you say that that refers to the same covenant? A-No sir,I do not say so. I would like to hear the other one read.

843 Q-Do you want me to read the other one? A-Yes sir,for you have them so mixed that I do not know which is whicch.

844 Q-This is in the 1835 edition of the book of doctrine and covenants,and is a revelation given in April 1830,as I before stated I will read it to you again,-"Behold I say unto you that all old covenants have I caused to be done away in this thing, and this is a new and everlasting covenant;even that which was from the beginning,-Wherefore,although a man should be baptized an hundred times,it availeth them nothing,for you cannot enter in at the straight gate by the law of Moses,neither by your dead works;for it is because of your dead works, that I have caused this last covenant,and this church to be built up unto me;even as in days of old. Wherefore enter ye in at the gate as I have commanded,and seek not to counsel your God, Amen". What do you say to that? A-I have said or if I have not,I will say it now,it don't make any difference how many times a man is baptized,if it is not done by authority from God,for there is no man that ever breathed the breath of life from Father Adam down to today, who had power to go forth and baptize the children of men except by the authority of God.

845 Q-You were baptized by legal authority in 1835? A-Yes sir.

846 Q-Then why the necessity of being re-baptized in 1849 or '50? A-I do not say there was any necessity. I could not say there was any necessity. We simply wanted to renew our covenants, and none of us had killed any body or committed adultery or stole anything or broken any law that I know of,but we simply felt that we wanted to renew our covenants. Now that was the way it was,and as I have already stated I was not and am not now aware of any law that prohibited us from being re-baptized if we saw fit to be re-baptized.

847 Q-This revelation I have read given in 1830,was the new and everlasting law,-the new and everlasting covenant I should say? A-Well that was the covenant that was established in the organization of this church,and which revealed the priesthood to the children of men,-

848 Q-You understand it was the new and everlasting covenant? A-Yes sir. It was a new covenant in the last days,because it referred to the establishing of the church and the priesthood.

849 Q-Well what I am asking you about Mr President is whether it was the new and everlasting covenant in 1830 when it was given? A-Well I view it so,and there is a reason for it of course,-

850 Q-Well if it was the new and everlasting covenant,how could it be that it was not revealed until thirteen years after that time and then called the new and everlasting covenant? A-Well that is called a new and everlasting covenant in that case because of the law of marriage under which it was given. That is as I view it but of course I do not know,but that is my opinion.

851 Q-Well is it not the covenant that is spoken of in the other? A-Well I don't know whether it is or not,but I should judge it is not.

852 Q-But the other had already been revealed in 1830? A-Yes sir,and there is a reason given for it,and why. There is a covenant,-a revelation perhaps that is not considered in the other.

853 Q-And for that reason you were re-baptized when you came to Salt Lake is that not true? A-No sir,-not at all,-not with regard to that covenant.

854 Q-Then why were you re-baptized? A-As I said before we were re-baptized because we felt like doing it,-renewing our covenant before the Lord. It was not done because we felt that we had to do it,but because we felt disposed to do so,-simply because we felt disposed to go and do it.

Counsel for the defendants objects to each and every question asked the witness relating to the new and everlasting covenant. on the ground that it is incompotent, irrelevant and immaterial, and not proper cross examination and moves the court to strike from the record all the testimony bearing on that question for the reasons given above.

855 Q-Well now I will read from section sixty five, paragraph two, page one hundred and ninety one of the 1835 edition of the book of doctrine and covenants. I will read all of paragraph two, as follows,-"And they have done unto the Son of man even as they listed; and he has taken his power on the right hand of his glory, and now reigneth in the heavens and will reign till he descends on the earth to put all enemies under his feet; which time is nigh at hand; I the Lord God have spoken it; but the hour and the day no man knoweth, neither the angels in heaven, nor shall they know until he comes; wherefore I will that all men shall repent, for all are under sin, except them which I reserved unto myself, holy men, that ye know not of; wherefore I say unto you that I have sent unto you my everlasting covenant, even that which was from the beginning, and that which I have promised I have so fulfill on, and the nations of the earth shall bow to it, and it not of themselves they shall come down, for that which is now exalted of itself shall be laid low of power; wherefore I give unto you a commandment, that ye go among the people and say to them like unto mine apostles of old, whose name was Peter; believe on the name of the Lord Jesus, who was on earth, and is to come the begin ing and the end; repent and be baptized in the name of Jesus Christ, according to the holy commandment, for the remission of sins; and whoso doeth this, shall receive the gift of the Holy Ghost, by the laying on of the hands of the elders of this church" Now that is from a revelation given to Sidney Rigdon, Parley Pratt, and Lyman Copley, given March 1833.

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial and not cross examination.

856 Q-What does that section indicate? That section shows that the everlasting covenant was revealed in 1833 does it not?

By Mr Cahell,-"We object on behalf of the defendant to the question asked the witness on the further ground that it calls for an opinion of the witness, when the witness is here to state the facts, and not give his opinions".

By Mr P.P. Kelley,-

857 Q-Well Mr President, as a fact, I will ask you if that revelation does not show that the everlasting covenant was not revealed prior to 1833?

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that it is irrelevant and immaterial, not cross examination and calls for and opinion of the witness.

A-I am willing to answer the gentlemen if he wishes me to do so, That answer of it is that the new and everlasting covenant that was from the beginning and will always be, is a covenant that the God of heaven made in the early days with the early priesthood, and any man that revelled the gospel, receives the gospel with that priesthood, and it is an eternal covenant descending from one generation to another, and it will continue as long as the Lord has a priesthood on earth, and whatever covenant they have in that other revelation I have nothing to say about it.

858 Q-Have you any other new and everlasting covenant, outside of that spoken of in section sixty five which I have read to you?

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that it is not cross examination, and calls for an opinion of the witness.

A-I am answer that I have nothing to say about it.

8[illegible] Q-If it is, wouldn't it be a contradiction of the law?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it calls for an opinion of the witness.

8[illegible] Q-Could there be two [illegible] everlasting covenants at the same time?

Counsel for the defendants objects to the question on the grounds as are stated in the last objection.

8[illegible] Q-Could it be that two [illegible] everlasting covenants at the same time [illegible] covenant? A-I have nothing to say about that.

8[illegible] Q-Do you decline to answer the question? A-I will with regard to that [illegible] covenant on the historical order of [illegible], it is a covenant consider with the [illegible] to represent [illegible] the Eldest [illegible].

8[illegible] Q-Is [illegible] is [illegible] to [illegible] the [illegible] of the [illegible] of God's [illegible] are [illegible]? A-I have [illegible] show it. There [illegible] of the law [illegible] I cannot or not contradict it.

8[illegible] Q-Is [illegible] of [illegible] the [illegible] the law? A-I don't know, I would not [illegible] to do that.

8[illegible] Q-Then if this is a contradiction,-that is if that is a law [illegible] it is a change of the one spoken of in section [illegible] five of the [illegible] million of the book of covenants?

Counsel [illegible] for the defendants objects to the question asked the witness for the reason and on the ground that it is incompetent, irrelevant and immaterial, not cross examination and calls for an opinion of the witness.

8[illegible] Q-Is it not true that there must be a change in these [illegible] two not? A-If you have reference that is meant in that law, or by that law, for that is what meant by it, you could remember, and so could I, but I don't, and I do not think you do either, nor do I think that any man does so that he can explain it. Of course it is a different principle, and of course it is connected with the [illegible] the [illegible] everlasting covenant.

8[illegible] Q-Will now when there was a change in the law there ought to be a change in the priesthood should'nt there? In the new testament that is meant,-It is meant in the former letter is it not. A-Well all I will say is that if it is in there it is correct.

8[illegible] Q-Will if that is true,-if it is true that there is a change in the law, there must of necessity be a change in the priesthood must there not? A-Are is there?

8[illegible] Q-I say if there is a change in the law there must of necessity be a change in the priesthood? I think not true?

"Counsel for the defendants objects to the question asked the witness for the reason and on the ground that it is irrelevant and immaterial, not cross examination and calls for an opinion of the witness.

A- I don't know,-there is if it is a law from God,-I don't know,- [illegible] a priesthood from man and a priesthood from God, of course there is a change.

8[illegible] Q-Well was I still talking of a priesthood from man or a priesthood from God? A-Well?

871 Q-Yes sir? A-He was talking of a priesthood from God of course

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that is is incompetent,irrelevant and immaterial,not cross examination,and calling for an opinion of the witness,and moves the court to strike the answer of the witness from the record for the foregoing reasons.

872 Q-Now I want to read the sixth paragraph of this section,-section one hundred and thirty two,in the book introduced as exhibit A of the defendants. It is on page four hundred and sixty four, it is as follows,-"And as pertaining to the new and everlasting covenant,it was instituted for the fulness of my glory;and he that receiveth the fulness thereof,must and shall abide the law,or he shall be damned,saith the Lord God. I will also read the seventh verse of the same section,"And verily I say unto you,that the conditions of this law are these,-all covenants,contracts,bonds,obligations,oaths,vows, performances,connections,associations,or expectations ,that are not made and entered into,and sealed by the Holy Spirit of promise of him who is anointed,both as well for time and all eternity,and that too,most holy by revelation and commandment through the medium of mine anointed,whom I have appointed to hold this power,(and I have appointed unto my servant Joseph to hold this power in these last days,and there is none else but one on the earth at a time,on whom this power,or more this power and the keys of this priesthood are conferred,)are of no efficacy,virtue or force,in and after the resurrection from the dead;for all contracts that are not made unto this end, have an end when men are dead". Now does that abolish the new covenant that was referred to in the revelation of 1831?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,not cross examination ,and calling for an opinion of the witness.

A-Well there is three glories,-celestial,terrestrial and telestial, These are the three glories,and this is also in the revelations of God in the last days,and that new is said in that new and everlasting covenant belongs to the celestial glories,when you come to explain it, and if you could understand these things of course there would be no mystery connected with it.

873 Q-Well is it was the new and everlasting covenant referred to in the revelation of 1831 able to raise there to the celestial,or telestatory? A-Probably,and it would be understood if all the law of God were there,-

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons set forth in the last objection, and moves the court to strike out the answer of the witness on the same grounds.

874 Q-Does not the section I have read to you in effect teach that all the contracts entered into by parties who are not obliged or who do not believe in the section I have read to you, go to their death end,-marriage contracts as well as all others? A-Yes sir.

875 Q-That is a fact,-that is your belief? A-Yes sir,-that is what it says.

876 Q-Were you present when Brigham Young was made President of the church? A-Yesx sir,I think I was.

877 Q-What time was that? A-Well I think it was in winter quarters I think it was when we were in winter quarters,and it was in 1847 if I mistake not.

878 Q-It was when you were in winter quarters? A-Yes sir.
879 Q-And that was in 1847 you say,-that is the time when [illegible] Young was selected or elected to the Presidency of the Church? A-Yes sir. It was either late in 1847 or the spring of '48. I think now it was in '47,but I could not say positively, for I can't remember the dates.
880 Q-Was he in his position prior to that time,-that is the position that Brigham Young occupied in the church prior to that time? -President of the twelve apostles.
881 Q-How many of the twelve apostles were there forty years ago in the church that came west? A-Therxxxxx was all that was in the church I believe but William Smith. I think that William Smith was east at the time of the migration from Nauvoo.
882 Q-Did he come on west with the church? A-No sir.
883 Q-And John E. Page didn't either,-is that so as well? A-Well he came to the church then,-that is he was one of the twelve apostles.
884 Q-Was he one of the apostles at that time? A-I don't know.
885 Q-Do you know how many of the twelve apostles there were at that time? A-I don't remember, no sir, I could not say, for I never was interested enough to find out.
886 Q-[illegible] A-I don't know. I could not say. Most of them are all dead now, I think. I could tell you about those things,but I cannot do so unless I recall. I can of course do so if I recall the occurrences. [illegible] positive facts,but I think that I have right in the order of the events here. [illegible] in 1847 [illegible] conference at which Brigham Young was elected President was held on our return from Nauvoo, or I think it was held at Winter Quarters.
887 Q-Do you know how many of the twelve apostles there were at that time? A-I could not say.
888 Q-Well do you know? A-I do not know [illegible] I don't remember.
889 Q-Don't you know that at that time you were a member of the church? A-Yes sir, but I don't remember.
890 Q-Well sir I do know not know. I don't know [illegible] A-Well sir I could not say, for I never [illegible] I can of course do so if I recall [illegible] positively.
891 Q-Do you say that there was any more than the other three who [illegible] A-I don't know, I can't say how many there were, or to do so I would have to look that up.
892 Q-Do you know the names of the twelve at that time? A-That is a matter I could look up, for I could tell you [illegible].
893 Q-Will you give a list of them to you? Heber C. Kimball, Parley Pratt, Orson Pratt,-Orson Pratt was not then A-No sir.
894 Q-Will you [illegible] A-He was one of the apostles,but he was not [illegible] at that time.

894 Q-John Taylor,John E.Page,Wilford Woodruff, [illegible] George A. Smith and David Patten? A-No sir,David [illegible]. He was not there at that time for he was dead.

895 Q-David Patten you say was dead at that time? A-Yes sir.

896 Q-Well who was put in his place? A-I do not recollect [illegible] in his place.

897 Q-Well you recognize John E. Page as one of the twelve? A-[illegible]

898 Q-And William Smith and Lyman [illegible] A-Yes sir,[illegible] there at that time.

899 Q-Was John E. Page there? A-No sir. Neither John E. [illegible] E. Smith or Lyman Wight were there,and they [illegible] cut off from the church I believe,-I [illegible] -but at all events they were cut off [illegible] not know from memory that [illegible] but it is my recollection [illegible].

900 Q-They were members of the quorum of twelve [illegible] death of Joseph Smith? A-Yes sir.

901 Q-Did you say that they were cut off [illegible] John E Page withdrew from [illegible] him,the same as Strang and [illegible].

902 Q-They were not cut off from the church [illegible] the practice of polygamy,-i[illegible] A-No sir.

903 Q-They did not? A-No sir,they did [illegible] -ed polygamy himself.

904 Q-Do you know that? A-Yes sir.

905 Q-How do you know it? A-I know it from [illegible] -al people,and the testimony [illegible] living here in the territory.

906 Q-That is the way you know it? A-Yes sir,I [illegible].

907 Q-Well are you willing to swear that the practice [illegible] of your own knowledge? A-Well I could [illegible] way but I believe it to be a fact and you [illegible] produced here before you are through [illegible] There is no doubt about it,for I have [illegible] were his wives,at least they said they were,and [illegible] for I know,or did at that time know [illegible] stances.

908 Q-Well you can't know that of your own knowledge? A-[illegible] saw a woman sealed to him. I never saw that, [illegible] man can know many a thing and give testimony [illegible] it is true that he did not see,-that he does [illegible] know personally.

909 Q-Well now at the time of the death of Joseph Smith [illegible] not the authority [illegible] for the office of [illegible] cy,-did not the authority of the church [illegible] apostles? A-At the death of Joseph Smith?

910 Q-Yes sir,as a quorum? A-At the death of Joseph Smith [illegible] the direction of affairs of the church fell upon the quorum of twelve,-the elders of the church,-as the highest [illegible] the church.

911 Q-What was it fell upon the quorum? A-The duty and obligation of leading the church,Joseph Smith had ordained the twelve apostles and given the directions before his death.

912 Q-At the time of his death they were the highest quorum in authority in the church were they not? A-Yes sir.

913 Q- Had Joseph Smith at this time,-at the time of his death,-a[illegible]

[illegible] this place, to your knowledge?

[illegible] twelve apostles.

[illegible] A-At the last meeting we over[illegible]

[illegible] -To take his place as the bear-[illegible]

[illegible] place? A-Yes sir'

[illegible] afterwards as they [illegible]

[illegible] A-Yes sir.

[illegible] position? A-Yes sir.

[illegible] A-Yes sir.

[illegible] place? A-No sir.

[illegible] until the or-[illegible] upon the organization [illegible] became vested in it.

[illegible] then and has been since [illegible]

[illegible] President is dead or passes [illegible] to govern the [illegible] President can be elected.

[illegible]

[illegible] to act in that manner?

[illegible] last interview we had with him, [illegible] last interview that was had [illegible]

[illegible] that authority? A-Well he [illegible] God Almighty has re-[illegible] authority and power [illegible]

[illegible] that he ever gave to [illegible] these powers and princi-[illegible] of the twelve apostles", [illegible] you have to round up our shoul-[illegible] and if you don't do it you [illegible]. So that is substantially what he said, and [illegible] had. And I think the Spirit [illegible] in the church since that [illegible]

[illegible] that was done? A-Yes sir.

[illegible] which the authority was conferred upon [illegible] A-Yes, sir.

[illegible] authority upon any single individual? [illegible] the twelve apostles.

[illegible] the church? A-Yes sir. He has taught us [illegible] priesthood, and given us to understand all [illegible]

[illegible] one of the twelve to receive revelations and [illegible] President of the church? A-Yes sir.

[illegible]

[illegible] President, seer and prophet seer and revelator? A-Yes [illegible] Yes, was the President of the twelve apostles, [illegible] shoulders rested this power, and of course he was [illegible] Joseph by virtue of the Holy authority of the [illegible], and he was in one time chosen by the church as [illegible] President.

[illegible] President of the Church? A-Yes sir.

936 Q-Was not Thomas B. Marsh the President of the church ~~before~~ ~~before~~ before him? A-Yes sir,but he was not eligible.
937 Q-Why not? A-Because he apostatized.
938 Q-Did he not hold all the ~~authority~~ rights and authority that belonged or pertained to the Presidency of the twelve? A-Yes sir he did at one time,but he did not at the time of the death of Joseph Smith.
939 Q-Did he while Joseph Smith lived? A-No sir. Not while he lived. That is he occupied that position when he was first ordained in to the quorom of twelve. He was the oldest man,and occupied that position as long as he remained faithful in it.
940 Q-He had all the power as long as he was faithful,but as you say he apostatized? A-Yes sir.
941 Q-He held all the keys as long as he was President of the twelve? A-~~Yes~~ sir.I suppose so.
942 Q-You say you suppose so? A-Yes sir.
943 Q-Do you know? A-I have answered the question.
944 Q-Don't you know that the revelation so states the fact,-that he held all the keys while was President of the twelve? A-Probably it does. I cannot say postively that it does,but that is my impression.
945 Q-Now did Joseph Smith select or point out any of the twelve to be a prophet,seer and revelator,to the church? A-Well he called
946 Q-Well now just answer that question,-did he point out either one of them to be a prophet,seer and revelater to the church? A-He did not take that distinction that I know of at that time as applying to any one there.
947 Q-Did he at any time? A-Only as we gather from his teachings,and he always taught that the President or oldest man in the quorom of twelve would be the President of the quorom of twelve, and in the absence of the first Presidency of the ~~twelve~~ church or the President of the church they were the next in authority were to preside over the church;and you will find that in all the revelations as well as in the books of the church.
948 Q-What books? A-The book of doctrine and covenants,the book of Mormon and the bible.
949 Q-You said it was in the revelations of the church? A-Yes sir
950 Q-Please mention one revelation in which we find that doctrine? A-What is that?
951 Q-I asked you to mention one revelation in which we can find that doctrine,-the doctrine that in the absence of the President the President of the quorom of twelve is to exercise authority in the church? A-Well I can't point it out to you unless I have time to search it out.
952 Q-Well sir I will give you from this time until to-morrow at noon, -from the time you got off the witness stand until to-morrow afternoon when we meet here to do so, Will you agree after you leave the witness stand to find it and come back here to morrow at,-well at the time we convene here,and present that revelation? A-I don't think it will take that long sir. If you will take book of doctrine and Covenants,and turn to the organization of the church,and if it is published there, as I think it still is,you will find it,-the twelve apostles were equal in authority with the first Presidency of the church.
953 Q-Well that is not the question? A-Well what is the question?
954 Q-It is the question of showing that the President of the quorom of twelve would be the President of the church in the event of

the President of the church dying? A-Well sir you read the revelation there on the organization of the church and you will see it.

955 Q-Will you be kind enought to point out the revelation in any book of doctrine and covenants printed since the year 1830, in which it is taught that the President of the Quorom of Twelve would become the President of the church,-would succeed to the office of the First Presidency of the church, upon the death of the First President? A-There has been a great many revelations given since 1830.

956 Q-I know that, but I simply ask you to point to one of them which says that upon the death of the President of the church, the right to the succession to the office develves upon the President of the Quorom of Twelve. I will give you from the beginning of the year 1844 up to the very time of the death of Joseph Smith on the 27th day of June 1844,-I mean from the first of the year of 1830 up to the very day of the death of Joseph Smith in '44, to produce a revelation to that effect, either from any of the books of doctrine and Covenants published during that period, or which have been published since that time, that advance such a doctrine or rule as that? I will give you full latitude you see to do so if you can? A-Well I say any body can turn to the revelation on the organization of the church and see for themselves what the revelation says.

957 Q-Well I have never been able to find the one you refer to, and I have never been able to find any one who did, therefore I ask you for the information as to where it can be found? How do you say Mr Woodruf that there is any such a revelation in the book od Doctrine and Covenants, given to Joseph Smith, or to any body else, between 1830 and 1844,-the 27th day of June 1844,-down to that date, that teaches that upon the death of the President of the church, that the President of the twelve apostles succeeds to the Presidency of the church. Now sir that is the question I ask you and if you have ever seen such a revelation I would like you to state where it can be found, giving me the book and the page? A-Well you will find it in the book of Doctrine and Covenants, if you will give the one on the,-(witness hereupon takes a book). Here it is,-section one hundred and seven on page three hundred and eighty three in this book of doctrine and covenants.

958 Q-What is the date of it? A-A-1835,-that is the date of the revel-ation.

959 Q-What time in 1835? A-The date of the revelation is March 28th 1835. Now in speaking of the organization of the church it says,-it states in order, the order of the high priesthood of the church, and states what it is and whom it reats upon.

960 Q-Well go on and read the part of the revelation that says that the President of the twelve apostles shall be the President of the church? A-It don't say that?

961 Q-It does not state that? A-No sir.

962 Q-Well I thought not? A-Well but it says,-

963 Q-Well now never mind,-you have answered my question Mr Woodruf and that is sufficient. Well now is there in that book or any other book of doctrine and Covenants published between 1830 and the 27th day of June 1844,-one word in that revelation or any other revelation which says that in case the President of the church dies the Presidency shall descend to the President of the council of twelve? If there is I will give you time to find it for I am

curious to know if it is there,and if you will undertake to find it you can have your own time to do so Mr Woodruf?
A-Well if you can find anything else than that in the order of these revelations as they are given in this book than that, I don't understand the question,that is all. I cannot see what else they mean,although they do not come out and state the fact as you state it in your question. It states here that the twelve shall have equal authority with the President of the church,and I cannot see what else that means other than that is the event of the death of the President the Presiding officer of that quorom shall have authority when confirmed by the church,to act in his place. It says,-"The presiding high priest,chosen by the body and ordained to that office,and upheld by the faith,confidence and prayer,etc," Now that is what that says,and when the President dies some body has got to lead the church,and there is no one that I can see to do it but the presiding officer of the highest quorom of the church.For it is evident that when the President dies somebody has to lead the church.

964 Q-Well I will admit that? A-Yes sir,that cannot be denied.

965 Q-Well but was not the authority conferred by Joseph Smith,upon the whole twelve to lead the church? A-Well they are to be appointed,-the three Presidents from the twelve apostles,and they were to be upheld and sustained by the authority of the people. They have always done that upon the death of every President the church has ever had. I don't know of any other authority higher or plainer than that sir.

966 Q-The twelve are simply the second quorom in authority are they not ,-they are not the highest quorom in authority in the church? A-Yes sir,-there is the quorom of the Presidency.

967 Q-The twelve then are the second quorom in authority? A-Yes sir.

968 Q-And that is the quorom you referred to is it not? A-In what way?

969 Q-That is the quorom the revelation you have referred,-or read when the Presidency is living,but when the Presidency dies,it becomes as a matter of necessity the first quorom. referred to,is it not? A-Yes sir. It is the second quorom

970 Q-The first Presidency has to be called by revelation does it not? A-Yes sir.

971 Q-Always? A-The first Presidency is called by revelation.

972 Q-Would it be the first Presidency unless it was called by revelation? A-Well you can read that revelation for yourself and see what it says. What you are asking for now is simply my opinion and that I presume would not be competent.

973 Q-Well I want your opinion as to that,-you are the President of the church,and presumably were called in that way,therefore your opinion might be of weight? A-They are equal in authority to the first Presidency,and when the first Presidency dies there is no revelation given to any other quorom,the authority to lead the church but them.

974 Q-I will read you from section fourteen,in exhibit E,page one hundred and twenty five,revelation given February 1831,the first and second paragraphs,-"Oh hearken ye elders of my church,and give ear to the words which I shall speak unto you;for behold verily,verily I say unto you that ye have received a commandment for a law unto my church,through him whom I have appointed unto you, to receive commandments and revelations from my hand. And this ye shall know assuredly that there is none other appointed unto you to receive commandments

and revelations until he be taken,if he abide in me.
But verily,verily,I say unto you that none else shall be appointed unto this gift except it be through him,for if it be taken from him he shall not have power,except to appoint another in his stead;and this shall be a law unto you,that ye receive not the teachings of any that shall come before you as revelations or commandments;that you may know they are not of me. For verily I say unto you,that he that is ordained of me shall come in at the gate and be ordained as I have told you,that he that is ordained of me shall come in at the gate before,to teach those revelations which you have received,and shall receive through him whom I have appointed". What do you say to that? A-Well the twelve apostles were called and ordained by the direction of Joseph Smith and under his hand,and the President of the twelve apostles was ordained to that position.

975 Q-Were they all appointed as Presidents by Joseph Smith? A-As Presidents?

976 Q-Yes sir? A-No sir I don't know that they were.

977 Q-You don't know that they were? A-No sir.

978 Q-Do you know that they were not? A-I know that they were appointed as apostles or members of the quorom of twelve.

979 Q-Were they all appointed prophets,seers and revelators by Joseph Smith? A-Yes sir.

980 Q-They were? A-Yes sir.

981 Q-You know that? A-I do.

982 Q-All appointed,-every one of them? A-Yes sir,he called them all.

983 Q-To receive revelations for the church? A-The entire number of the apostles,-the twelve apostles,were sealed,-had these gifts sealed upon them by Joseph Smith before his death.

984 Q-What gifts? A-The gifts as prophets,seers and revelators.

985 Q-Were they to receive revelations for the church? A-Yes sir.

986 Q-They were endowed or authorized to receive revelations for the church? A-Yes sir. in their time.

987 Q-The same as is stated in this revelation I have just read? A-Yes sir.

988 Q-You said they were authorized to receive revelations in their time? What did you mean by that? A-When they were called upon or would be called upon to govern the church,they were then to receive revelations,but they had a right to receive revelations themselves at any time,the same as any other member of the church. The power to reveice revelations to be an authority and rule on the church was conferred upon them in the event of their being called to the Presidency of the church.

989 Q-Then why was it that Joseph Smith had to set one apart for that purpose? A-What purpose?

990 Q-To receive revelations for the church? A-I have not said that. I did not state that he was to set any one apart for that purpose. The whole twelve were set apart for that purpose by Joseph.

991 Q-Well did he set any one apart individually? A-No sir.

992 Q-He did not set any one particular person apart for that purpose? A-No sir,not individually in that respect.

993 Q-Did he not set a part the seventy two? A-No sir not in that capacity. Of course the seventy were ordained in the position they occupied but the same gifts were not conferred upon them that were conferred upon the twelve to be exercised in the event of a certain contingency arising.

994 Q-What was that contingency? A-In the event of their being called to the Presidency of the church.

995 Q-You say the quorom of seventy was ordained? A-Yes sir,all the authorities in the church were ordained.

996 Q-Now did he not set them apart as a third quorom in the church? A-No sir,I don't think he did,-that is the twelve postles,-

997 Q-Are you willing to swear that he did not?. A-No sir I am not willing to swear he did not but there is a difference in those quoroms.

998 Q-Were or are they recognized in the revelation as the third quorom in the church? A-I don't know. There is the high priests and the seventies,-and of course it is an office of the high priesthood.

999 Q-Were they not recognized as holding the same authority as the twelve? A-No sir.

1000 Q-An equal Authority? A-No sir. There were seventy in their decisions.

1001 Q-The seventys have equal authority with the twelve? Is that what you say? A-If they all agree upon any point they have the same authority,-that is they have equal authority with the twelve in any decision on a question that is submitted to them,but they cannot control the twelve in any way,nor the President of the church.

1002Q-They have equal authority when they all agree? A-Yes sir,upon any given question.

1003 Q-And the twelve must all agree before they are equal to the Presidency? Is that not a fact? A-I do not know.

1004 Q-Well what is your best impression upon that? A-I do not recollect what the revelation says upon that point?

1005 Q-You do not claim that if nine of the apostles were to claim a certain thing was right,and three of them were to claim it was wrong,that their decision would be equal to that of the Presidency? A-Of course they would have to agree,-that is providing,-to say the twelve apostles if they were all in apostleship,-of course they would have to agree.

1006 Q-Now suppose the,-all of the twelve,and the Presidency should be removed at the same time,would the seventy in that case be appointed and have the same authority as the Presidency? A-Well that would be a question for consideration. That is a thing that has never happened,and I cannot say what would be done in that case. That would be a thing to consider when such a condition of facts would come to pass. The seventy in that case would be the highest body in authority in the church

1007 Q-The seventy holds equal authority with the twelve do they not? A-In their office and in the performance of their specific functions they do. When they take up any case to decide,and when they agree or are all united upon it,of course their decision is equal to that of the twelve. It is the same as the decosion of the twelve in that event.

1008 Q-Welll they hold in their office,when they take up any case to decide,and agree upon it,they hold equal authority with the twelve? A-Yes sir,in that matter they would.

1009 Q-You said the other day in your examination by Mr Hall that the endowments you received in Nauvoo,are the same that you received here in Salt Lake City? A-Well what we received was this,-we were taught the same principles. As far as we had the priveledge of entering into these ordinances in Nauvoo, they were the same as were given here. We were taught these principles,all of them,there. We were taught the principles of the endowments there at Nauvoo,

were the same as the endowments taught here,-they were identi-cal.

1010 Q-You did not receive them just as you did out here? A-Yes sir, substantially the same.

1011 Q-You did not receive them in the same manner,-in the same formula did you? A-Well of course at first when it comes to that we did not,but we did after the templ e was done. We did then I have repeatedly told you that they were substantially the same,for Joseph Smith ~~told us all~~ taught us all ~~the prin-~~ the principles before his death.

1012 Q-Did he teach the formula of conferring the endowments that was practiced here after the migration from Nauvoo? A-Yes sir,he taught the ordinances and formula,-the ceremonies,-all of them identically the same as they were taught here,-that is so far as they could be practiced.

1013 Q-Now did Joseph Smith teach them outside of the temple? A-Yes sir.

1014 Q-Now here is a book I want to be marked as exhibit "D"(the book referred to is marked exhibit "D"). I will hand you this pamphlet marked exhibit "D" Mr Woodruf,and ask you to examine pages one,two,three and four,five,six,seven and eight,thereof and say whether that formula,-all of it,-is the same formula, that was taught you in Nauvoo by Joseph Smith for receiving the endowments,or conferring the endowments? A-Do you want me to read it?

1015 Q-Well you can look at that and see,-satisfy yourself if it is the same thing? A-Well I certainly would have to have time to look over these things,for I could not give you answer to something covering half a dozen pages of a pamphl et like that,without looking it over and reading it. (Witness hereupon examines the pages of the pamphlet marked exhibit "D",regarding which he is examined,and answers)What do you want me to do with this?

1016 Q-I want you to tell me whether that is the ceremony or formula that was taught by Joseph Smith in Nauvoo in giving the endow-ments A-I can't tell you without I have time to read it, and I haven't time to read it here. As far as I see here,-here is something I don't comprehend.

1017 Q-What is it you do not comprehend? A-There are some plates here that I do not comprehend.

1018 Q-Joseph Smith did not present any such a thing ~~xxxxxxxxxxxxxxxx~~ to you as that did he? A-As what?

1019 Q-As those plates represent? A-No sir,and we never had any such plates as that,-not that ever I saw. I don't know anything about them,-I know we never had any such as some of them.

1020 Q-You never saw anything like them in Joseph Smith's day,-nothing like that? A-No sir,not in his day,nor since.

1021 Q-You swear to that do you? A-Yes sir,so far as my knowledge goes I do. I don't know anything about these plates,-that is only those.

1022 Q-That is the representation of the division of a room,-that is all is it not? A-Well no. A devils apron is not a room,but it is a very strange looking thing to me.

1023 Q-It appears that in that representation there was a devil? A-That seems to be the way this is gotten up.

1024 Q-Did Joseph Smith have a devil in his? A-Well there was of course a representation of an evil spirit in it,but there was not clothing like that in it.

1025 Q-Now did you ever see such a thing in Joseph Smith's day? A-Not in that kind of a dress I never did.

1026 Q-Then you do not recognize that as the dress,nor the figures?

A-No sir.

1027 Q-You do not? A-Well the figures I don't. I can't say as to the ceremonies. I can't say whether I would recognize them or not for I haven't had any time to read the whole thing. It will take time to read this so that I can answer the question.

1028 Q-Can't you look over that and answer the question as to whether or not that is the formula prescribed and followed out in the conferring of endowments as represented there? A-No sir I cannot. You see you have a whole book here,and it will take time to go through and read it before I can answer intelligently. I cannot say what these things here represented mean, for it is something I am unfamiliar with. I know that it is something that I am not acquainted with as having any part in the endowments.

1029 Q-Well you knew nothing of that kind in Joseph Smith's day? Is that not a fact? A-Yes sir,nor in any other day for that matter. There is nothing here that I know sir,that I recognize

1030 Q-That is all.

Re direct examination by Mr Hall,-

1031 Q-In your cross examination Mr Woodruff,you were asked the question if you considered the command to raise up righteous seed as spoken of in the book of Mormon,to be the one wife system? A-No sir,I did not.

1032 Q-You do not? A-No sir,I do not. It refers to a plurality of wives,because it refers to David and Solomon. That is what it undoubtedly refers to as it speaks of David and Solomon as well as others.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the same is incompetent ,irrelevant and immeterial,and hearsay,and moves the court to strike from the record the answer of the witness for the same reasons.

1033 Q-State to the reporter what kind of a marriage law,-or what kind of a marriage law you think would be good in case there would be a commandment given to raise up seed unto the Lord?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent, irrelevant and immeterial,and calling for the opinion of the witness upon a question that is peculiarly in the breast of the Lord himself,and about which the witness knows nothing. A-I don't know but that that is true about a number of the questions that have been asked me. There has been many a thing asked me that I do not know anything about,-which the Lord alone knows. Now in regard to that question different men would have different opinions about it,-that is a matter that different men would have different opinions about it. Any one here might have their opinion about it,and as far as I am con-cerned,as long as he was referring to the patriarchial order of marriage,referring to David and Solomon,and various other men,of course he forbid every person to do so,and then he states that if he would raise up righteous seed,he would command his people to do so. Now that is the view I would have of it.

Counsel for the plaintiff objects to the answer of the winess on the grounds and for the reasons as set forth in the objection to the question to which it is an answer,and on the ground that the answer is absolutely unintelligible

1034 Q-You were asked to give us your opinion as to whether he would command this people to observe the principle of one wife only ,or plural wives? Now state to the reporter what you underst-and about that?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrel-evant and immaterial,and on the further ground that the assumption of the party propounding the question that there was such a question asked the witness is not the fact,as there was no such a question asked the witness as the one just propounded.

1035 Q-Answer the question? A-What is the question?

1036 Q-You were asked to give it as your opinion,as to whether or not he would command this people to observe the principle of having only one wife,or of having plural wives? A-Well I understand as far as my views are concerned in regard to that subject,why of course he was treating upon the subject of plurality of wives in teaching the people there in those lands of America,and he refers to Solomon and David,and he forbid their practicing it there and he said if he would raise up seed unto himself,he would command his people,and of course there was hardly any commandment any there wherein a man should be commanded to go and marry one wife,-that is one woman,-that I know of.

Counsel for the plaintiff objects to the question asked the witness answer of the witness to the question on the ground that it is not responsive,~~xx~~ ~~xxx~~ hearsay and immaterial,and moves the court to strike the same from the record for the reasons given.

A-I think myself that in answering a question like that it is a matter that depends very largely on the personal judgement of the person who is required to make the answer,and in that respect it is like a good many other things. In other words it is a matter of opinion very lagrely. Now that is all y ou have to say to me gentlemen,or is there something else?

1037 Q-Well Mr Woodruff that is not quite straight yet? A-Is that question answered yet,or is it not. I am getting a little bit anxious to be away from here,as I have a good deal of important business that demands my attention.

1038 Q-Well the question I intended to ask you,-and I do not know whether I did put it exactly straight or not,was if he should command his people,would he command them to ~~xxxxxxxxxxxxx~~ observe the one wife system,or the plural wife system? A-It would be the plurality of wives of course.

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the same is incompetent,irrelevant and immaterial,and calling for an opinion of the witness only,and moves the court to strike from the record the answer of the witness for the foregoing reasons.

A-My opinion is that it would be the plural wife system. Now that is my opinion.

Counsel for the plaintiff moves the court to strike the answer from the record as being simply and strictly the opinion of the witness.

1039 Q-In your cross examination you were asked if Hagar was Abraham's bond-woman,and not his wife? Now state to the reporter whether this woman Hagar,was a bond woman by marriage,or whether she was a bond-woman as a servant of the family?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is irrelevant and immaterial,and calls for an opinion of the witness.

A-I was not there gentlemen,and of course I cannot say,but I would gather from the reading that she was a bond-woman by nationality,or as a servant. I would judge that,but of course there is a great many things in connection with these matters that a person

at this age of the world cannot state postively,with reference to occurrences at that time.

1040.W-I will get you to state to the reporter whether you know that that revelation was presented,or rather given on Fishing River in 1834,was ever presented to a conference or general assembly for acceptance by the church? A-I don'tthink it was presented to the church. It was never presented to the church at any time that I have any knowledge of. There is no history to the effect that it was presented to the church,and my recollection does not serve me to say whether it was or not.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,not the best evidence,nor re-direct examined on,and the motion is made to exclude the answer from the record for the same reason.

1041 Q-Do you know that any of the revelations that were printed in the different editions of the book of doctrine and covenants,after the 1835 edition,were ever presented to the church,and adopted by the church,before the death of Joseph Smith.

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is incompetent,irrelevant and immeterial,and for the further reason that the witness is not competent to answer the question,as it appears from the testimony of the witness that he was not present at all of the conferences of the church during the time indicated in the question.

A-Well I have no recollection of their ever having been presented to the church.

1042 Q-State to the reporter if the revelation concerning the war of the rebellion,-the war between the north and the south,given in 1832,-the revelation concerning the one mighty and strong given in 1832,-the revelation given in 1838concerning tithing,-the revelation given in 1838 concerning the name of the church,were considered or accepted,any of them, by the church,or were accepted by the church any time prior to the death of Joseph Smith in 1844,as true revelations,and as a part of the law of the church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immeterial,is not proper re-direct examination nor the best evidence.

A-Yes sir,they were accepted, They were accepted the same as the others revelations were accepted. They were accepted as principles of truth.

1043 W-Were they acted on by the church? A-Oh,they never were presented that I know of before the conferences. In fact all that has been said here about revelations being presented to the church is just this way,-There has been very few that I ever heard of or seen that were presented that way,-that is formally to the conferences,and I have been in the church very near sixty years. I have been in the church I may say sixty years,and I never have seen them presented only in one or two instances. I think in 1835 the books were presented in the conference there concerning these revelations as doctrine to the church,and I think they have been presented to one conference here;but as revelations that have been given to Joseph Smith,or which have come trough him,they have never been presented for reception or rejection as a general thing before the church,to my recollection.

Re cross examination by Mr Kelley,-

1044 Q-Now I want to ask you one more question Mr Woodruff? A-All right sir.

1045 Q-I will ask you what time this book of Mormon was printed and published? A-It has been printed and publi shed a good many times. Do you mean the first time?

1046 Q-Yes sir,when was it first printed and published to the world? A-Well that is a matter of guess you know as well as I do,for I was in the eastern country at that time,-a miller attending a mill at the time that book was first printed. It was printed and published to the world before I ever heard of it at all.

1047 Q-Was it not in 1829 or 1830 that was done? A-I think it was.

1048 Q-Now my friend Hall here got you to make a guess in regard to what the Lord would do,in case he commanded his people in reference to marriage,-as to whether it would be a command to take one wife,or more than one,and he got you to say in your judgement he would command you to take two? A-That was with reference to what was said here in connection with King Solomon and David,etc.

1049 Q-Now to refresh your recollection and show you that he got you to guess wrong I will read to you paragraph seven of section thirteen,from the revelation given in February 1831,where the lord does speak on that question? A-Very well,read it.

1050 Q-"And again I say,thou shalt not kill,but he that killeth shall die. Thou shalt not steal,and he that stealeth and will not repent shall be cast out. Thou shalt not lie,he that lieth and will not repent shall be cast out. Thou shalt love thy wife with all thy heart,and shall cleave unto her and none else;and he that looketh upon a woman to lust after her shall deny the faith,and shall not have the Spirit,and if he repent not he shall be cast out. Thou shalt not commit adultery,and he that committeth adultery and repenteth not shall be cast out; but he that committeth adultery and repenteth with all his heart and forsaketh it,and doeth it no more,thou shalt forgive,but if he doeth it again he shall not be forgiven,but shall be cast out", Now does that teach a plurality of wives? A-No sir.

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it calls for an opinion of the witness,when he is here to testify to the facts.

1051 Q-Now sir I will read from section sixty five,paragraph three, page onehundred and ninety two,from the edition of 1835,as follows,-"And again I say unto you that whoso forbiddeth to marry,is not ordained of God,for marriage is ordained of God unto man;wherefore it is lawful that he should have one wife, and they twain shall be one flesh,and all this that the earth might answer the end of its creation,and that it might be filled with the measure of man,according to his creation before the world was made". What do you say to that? Does that teach a plurality of wives?
A-No sir.

Counsel for the defendants objects to the question asked the witness for the reason and on the ground that it is not re-cross examination,and does not call for the facts,but for an opinion of the witness.

1052 Q-Now I have read you two revelations where the Lord has spoken on the question of marriage since the time of the publication of the Book of Mormon? Ain't that so Mr Woodruff? A-That is so.

1053 Q-And neither time that he has spoken of has he said that a man should or could have more wives than one,-is that not the fact? A-All of these revelations are given to the children of men,with reference to these principles,the principle of marriage etc.and it is something that is connected with the whole human family,and it is opposed to whoredoms and abominations of that kind,and if

the Lord gave us,as is stated there in the boook'of Mormon,-if the Lord raised up seed unto himself he would command his people,but he does not say that at all,-he does not say that he would command in that event,but of course we believe in the revelation which Joseph Smith received on that subject the latest revelation he received,which referred directly to the matter of the patriarchial order of marriage, and believing in it,of course we practiced it.

1054 Q-Now in answer to one of Mr Hall's questions,you spoke about a "seer",-about "the seer"as being a book containg the doctrine of your church? A-I did not say that postively. I said it was presented there,and some of them may know about it. There may be some of the brethern here in the city who will know more about that than I do,-but I think I am correct when I say that all the books were presented to one conference here,and I think the object of presenting them was with reference to the "Seer"which was represented as being revelations from the book of Abraham . It was represented to come from that book,and there was a whole lot of important things in it,but it was only a small book any way.

1055 Q-Now do you mean"the Seer",or "The Pearl of Great Price? A-Ain't they both one?

1056 Q-No sir they are not,and I don't want to mislead you? A-Well then if there are not one and the same I don't know which one it was. The one I refer to was only a small book any way,that did not amount to much from point of size.

1057 Q-Well the Seer is a publication by Washington Pratt? A-Well then I think it must have been the Pearl of Great Price. I must have been mistaken,but then I am subject to those lapses of memory.

1058 Q-So then the Pearl of Great Price was made a part of the doctrine of the church? A- A-Well it was presented as the faith we believe. We believed in the principles of it,-that was the idea of it.

1059 Q-Were there any ordinances in it that you practiced or conferred? A-I don't know that there was any ordinances in it at all.

1060 Q-Well then it was just a part of the faith of the church,-that is the way you understand it? A-Yes sir.

Witness fees $1,50 paid by defendants.

It being impossible to conclude the taking of the evidence herein on this day,the further taking of the same was by the Examiner continued until the forenoon of Tuesday March 22nd at the hour of 9,30 o'clock then and there to be continued at the place in that behalf first aforesaid.

Upon the conclusion of the direct examination of the witness Wilford Woodruf on Wednesday March 16th 1892,said witness was excused until the morning of March the 17th at the hour of 9,30 o'clock,but at that time his private Secretary presented a certificate from Dr Young, to the effect that said Wodruf was ill and unable to attend as a witness thereupon the defendant produced the following named witness,-

A:-I resided in Nauvoo.
4 Q:-In Nauvoo,Illinois? A:-Yes sir.
5 Q:-When did you come here to Salt Lake? A:-I came here the same time that Brigham Young came through here to settle the valley. I came with the emigrants at that time.
6 Q:-What year was that? A:-That was in '48.
7 Q:-Will you state to the reporter,what church,if any you are a member of? A:-Of the church of Latter Day Saints.
8 Q:-Is that the full title of the church to which you belong? A:-It is the church of Jesus Christ of Latter Day Saints.
9 Q:-Will you state to the reporter about what time you became a member of that church? A:-Well it was,-now let me see,-It was when I was fourteen years old,and now I am sisty-eight,and you can reckon back yourself and see how old I was. It is over fifty years somewheres,-not far from fifty-four years ago since I became a member of this church,and I have belonged to it ever since. I joined the church about fifty-four years ago,and I have been with it ever since that time.
10 Q:-Now you say you resided at Nauvoo? A:-Yes sir.
11 Q:-How long did you reside at Nauvoo? A:-Well we were there a number of years. I can't state exactly how long we were there. We were there in Nauvoo about '46 I think as near as I can come at it.
12 Q:-Will you state to the reporter what you know,if any thing,in regard to the prilciple of plural wives,or plural marriage,or what is generally called polygamy, being taught,or practiced in the church of Jesus Christ of Latter Day Saints at Nauvoo,during the life-time of Joseph Smith?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and there is no issue in this case upon which such a question can be predicated.
A:-What did I know about ~~xxx~~ that?
13 Q:-Yes ma'am? A:-Well I know that I was taught the principle of plural marriage by the prophet Joseph Smith myself,and I was married to him in Nauvoo in '43 myself.
14 Q:-Will you state to the reporter the facts in regard to your marriage with Joseph Smith or to Joseph Smith?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds as sot forth in the last objection,and on the further ground that the record of the alleged marriage will be the best evidence of the fact.
Well I will state it that I was married to him in Nauvoo.
15 Q:-Well what I mean is,who performed the ceremony?
A:-Hyrum Smith.
16 Q:-Hyrum Smith performed the ceremony?- A:-Yes sir.
17 Q:-I will ask you Mrs Willes if you were a wife of Joseph Smith in all that the word implies?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent,irrelevant and immaterial,and not the best evidence,and there is no issue in this case upon which to introduce such testimony.
A :-Yes sir.
18 Q:-I Will ask you to state to the reporter Mrs. Willes if the principle of plural marriage as taught by Joseph Smith is identical with the principle of plural marriage as contained in the revelation

published by the church here in Utah?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is leading,incompetent,irrelevant and immaterial, not the best evidence,and hearsay.
A:-Yes sir.
19 Q:-They are the same? A:-Yes sir,they are the same,-there is no change.
Cross examination by Mr.Kelley,-
20 Q:-Where did you reside before you came to Salt Lake?
A:-In Nauvoo.
21 Q:-Where did you reside before you came to Nauvoo?
A:-Well after we were driven out of Missouri I was in Pike County,Illinois for a while,-we stayed there until we went to Nauvoo.
22 Q:-What was your name when you was in Missouri? A:-My name was Melissa Lott.
23 Q:-And after you went to Nauvoo what was your name?
A:-Well I have given my name. It was Melissa Lott until I was married to Joseph Smith.

24 Q:-Who did you say you were married to Joseph Smith by?
A:-By Hyrum Smith.
25 Q:-Then what was your name? A:-It was Melissa Willes when I married Ira Willes.
26 Q:-What was your name after you was married in Nauvoo at the time you speak of? A:-It was Melissa Lott Smith.

27 Q:-It was Melissa Lott Smith,you say? A:-Yes sir.
28 Q:-Did you pass by the name of Melissa Lott Smith there at Nauvoo? A:-By those that knew I did.
29 Q:-Did you pass by the name of Melissa Lott Smith in Nauvoo? A:-Well I was called that in Nauvoo.
30 Q:-Where? A:-In Nauvoo.
31 Q:-Who by? A:-By Mr.Smith and his brother.
32 Q:-By any body else? A:-Yes sir.
33 Q:-Who? A:-My folks.
34 Q:-By any body else? A:-Well I can't enumerate every one that I knew of. Not expecting to be called on to give these things I did not keep a particular record of it.
35 Q:-Did the church in Nauvoo know that was your name?
A:-Well I think they did.
36 Q:-You think they did. A:-Yes sir.
37 Q:-Do you know? A:-I can't say,but I think so.
38 Q:-Was it placed upon the church records? A:-I could not say whether it was placed there or not. I couldnt say as to that for my memory don't serve me as well ~~say as t~~
as it did a few years ago.
39 Q:-What law of the church existed at that time by virtue of which you took your name?
Counsel for the defendant objects to the question asked the witness on the ground and for the reason that it does not call for the best evidence,the books of the church containing the laws of the church being the best evidence.
A:-The same name that it goes by now,-there has never been any change that I knew anything about since I know anything about the church.
40 Q:-You were acquainted with the rules of the church at that time? A:-Yes sir,I think I was,and have been ever since.
41 Q:-You were acquainted with Joseph Smith? A:-Yes sir,
42 Q:-You knew he had a wife living at that time?
A:-Yes sir.
43 Q:-What was the name of Joseph Smith's wife? A:-Well it was Emma,-Emma Hale Smith.

44 Q:-That was the name of his wife at the time that you went to Nauvoo? A:-Yes sir.
45 Q:-At that time you knew she was his wife? A:-Yes sir.
46 Q:-And she was his wife at the time you say you were married to him? A:-Yes sir.
47 Q:-Now what rule or law of the church permitted you to go and marry another woman's husband? A:-Because it was considered right.
48 Q:-Just answer me,-what rule or law of the church authorized such a marriage at that time? A:-Well it was the law.
49 Q:-Can you tell me where it can be found? Just find it and show me where it is? A:-In the revelations given by the Almighty to Joseph Smith the prophet.
50 Q:-Where are they contained? Where can it be found? A:-Well my memory don't serve me to tell you all about it. You have the books and the history and you will have to read it yourself and excuse me,for I don't think I can do it. You will have to find it yourself.
5I Q:-What was the ceremony used on that occasion? A:-The ceremony that was given to be used on that occasion.
52 Q:-How is that? A:-Do I have to testify to the ceremony?
53 Q:-Yes,you have to testify to the ceremony on that occasion?
By Mr.Hall,-
54 Q:-Well I don't know as you have to do that. If you are educated on that subject you can,and if you are not you need not do so? A:-I don't know that I can go and tell it right over as it was,-all that was said airy time.
By Mr.Kelley,-
55 Q:-You don't know that you can tell it? A:-I don't know that I can do it,but I know I was married to him.
56 Q:-Well what ceremony was used on that occasion? A:-It was that I was married to him for time and all eternity.
57 Q:-Were you married or sealed to him? A:-Well I don't know any difference in the ceremony -it was all the same exactly. All the ceremonies that I ever knew anything of were all the same.
58 Q:-That is to say you don't know any difference between the ceremony of marriage and the ceremony of sealing? A:-No sir.
59 Q:-You have heard of,and know of the ceremony that was in existence there at that time? A:-What time?
60 Q:-During the time that you lived there in Nauvoo? A:-Yes sir,I think so,but I don't know just what you have allusion to. I know the rules and regulations of our church,and I have always lived up to them, or tried to live up to them. I have tried to live according to them the best I know how.
6I Q:-Do you and did you know the ceremony that was provided for the church at that time,and was printed in the books? A:-Well it was the same ceremony that the revelation was given for,and it was the same ceremony that is used today,and it was used there in Nauvoo as far as I ~~as I~~ can remember anything about it. There was no difference in them,-it has always been the same.
62 Q:-It was the same you say? A:-As far as I can remember it was.
63 Q:-What time were you married? A:-Well I was married on September 27th I843.
64 Q:-September 27th I843? A:-Yes sir.
65 Q:-To whom were you married? A:-Joseph Smith.
66 Q:-Did you use,or was the ceremony used,that was printed in the book of doctrine and covenants at that time? A:-Well sir,whether that ceremony was exactly used or not at that time I can not say,but

to the best of my recollection I don't think it was.
67 Q:-You don't remember what the ceremony was that was used? A:-No sir.
68 Q:-But to the best of your recollection you don't think it was the ceremony that was prescribed as printed in the book of doctrine and covenants? A:-No sir.
69 Q:-Was there ever but one ceremony used? A:-No sir,I never heard of but one being used myself.
70 Q:-So then you were married to Joseph Smith in accordance with the ceremony in use in the church in 1843 and you state that to the reporter? A:-Well that is the best of my recollection,but I don't remember the words that were used,as I said before,for I had no occasion to remember it. If I had known it would be required of me now I might have had it taken down so I would remember it. I could I suppose have had it taken down by a reporter,and given it in,but my memory don't serve me now to say what it was exactly.
71 Q:-I will ask you if that was the ceremony that was used,-"You both mutually agree to be each other's companion,husband and wife,observing the legal rights belonging to this condition,that is keeping yourselves wholly for each other,and from all others during your lives." Was that the ceremony that was used? A:-That is as I understand it as nearly as I can remember.
72 Q:-And you married him under that condition,knowing him to have another wife living? A:-What is that?
73 Q:-You married him under that ceremony knowing he had a wife at the time? A:-Yes sir.
74 Q:-And he agreed to keep himself from his wife for you? A:-You will have to ask him that question,for I can't tell you.
75 Q:-You can't answer that question? A:-No sir,I did not ask him what he was doing,and I can't swear to his saying he would or would not. I don't think though that he made any particular promise of that kind. I don't remember of his doing it if he did.
76 Q:-You don't think he made any promise of that kind? A:-No sir,but I can't remember what he promised. That was a long time ago,-nearly fifty years ago,and it is a long time to remember a thing like that.
77 Q:-Did you make a promise of that kind? A:-Yes sir.
78 Q:-And he didn't? A:-I say I don't remember just what he said. I thought more about my own answers than I did of his.
79 Q:-Now was this marriage public or private? A:-There was quite a number present.
81 Q:-Answer the question,-was it public of private? A:-It was not very private.
82 Q:-Who was present? A:-I can't remember all who were there.
83 Q:-Well give us the names of the parties who were present as well as you can remember them? A:-My father and mother were there and several others and they are all in their graves today but myself.
84 Q:-Well who else was present besides yourself,your father and your mother? A:-Joseph Smith was there.
85 Q:-Well I know that,but who else was there? A:-Well some of my brothers,-one of my brothers,and the witnesses that were necessary.
86 Q:-How many children were born to you by Joseph Smith? A:-Not any.

87 Q:-There was not any children born to you by Joseph Smith? A:-No sir.
88 Q:-Have you ever borne any children since that time? A:-Yes sir,I have.
89 Q:-Who was your husband at that time? A:-Well sir,the father of my children was Mr.Wills.
90 Q:-When did you marry him? A:-I married him after I came to Salt Lake.
91 Q:-When,-in what year? A:-1849.
92 Q:-And you bore children by him? A:-Yes sir.
93 Q:-State now the reason why you never bore any children by Jodeph Smith? A:-Well that is something impossible to do,-that is something I can't tell.
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is not cross examination and is improper examination.
94 Q:-Did you live with Joseph Smith as his wife,or were you just simply sealed to him for eternity?
A:-I told you before. I have answered that question to the best of my ability.
95 Q:-Did you go to church with Joseph Smith,and were you seen on the streets and in public places with him, as his wife,during his life-time? A:-No sir.
96 Q:-You were not? A:-No sir,I was not. I was on the streets with him many a time,but nobody said I was his wife,and there was nothing said about that.
97 Q:-Did he ever pass you off as his wife in public any time? A:-Well I can't say as to that.
98 Q:-That is a matter you should recollect,is it not,if it was the fact? A:-Well I could not say as to that. I was married to him and did the best I could.
99 Q:-Did you mourn for him as his wife at the time of his death and afterward? A:-No sir,not as his wife.
100 Q:-How did it come that you did not mourn for him as his wife at the time of his death? A:-Well if you knew as much about this as you ought to,you would know there was a good many mourned for him when he was murdered,and do still for that matter.
101 Q:-Did you appear as one of his wives to mourn for him at the time of his death? A:-I have answered you the best I know how.
102 Q:-Did you appear as one of his wives to mourn for him? A:-I appeared there as one of his family and mourned his loss,and his wife was there,but she is gone too, --that is,sister Emma,and she was a lady,-his first wife was there ~~all~~ the time,and she knew all about it,and she is a woman I respected,and she respected me too. Now that is all I can tell you on that subject.
103 Q:-You remember his son,Joseph Smith? A:-Yes sir.
104 Q:-Were you acquainted with him? A:-Yes sir,very well I had a visit from him not many years ago.
105 Q:-Did you pass as one of the mothers of Joseph Smith there in Nauvoo? A:-No sir.
106 Q:-Why didn't you do that? A:-I was not one of his mothers,and did not expect to. I respected him as a gentleman,and if he does not respect me as a lady today he is not the man I took him to be. It is not very long since I had a visit from him,and I always took him to be a gentleman.
107 Q:-Where did you live when he called to see you? A:-I lived in Lehi,the very place I live today.

108 Q:-Did you ever see any children of Joseph Smith in the territory of Utah,-or do you know of any of his children being in Utah at any time? A:-I don't know anything about his affairs,-

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not cross examination.

A:-I don't know anything about his affairs,-I attend to my own business.

109 Q:-Joseph Smith who lived at Nauvoo at the time you say you married him,and who was president of the church,has he any children in the territory of Utah, or did he ever have at any time to your knowledge?

Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons that it is incompetent,irrelevant and immaterial,and not cross examination.

A:-I don't know anything about that. I can't swear to anybody's children only my own.

110 Q:-Do you want to go on record here as stating that you married him according to this law of the church? A:-I want to go on record as saying that I married him as an honorable woman,and was doing the best I knew how on this earth. That is what I want to go on record as saying.

111 Q:-When you agreed with each other according to this agreement to hold to each other as husband and wife, keeping yourselves wholly for each other,and from all others during your lives,"is that what you meant? A:-Yes sir,that is what we agreed to do.

112 Q:-That was the ceremony? A:-I agreed to that in that way,and I have lived my religion,and lived that way all my life.

113 Q:-You said you were married for time and eternity? A:-Yes sir.

114 Q:-Well there is nothing in this ceremony stating that,is there? A:-Well it don't matter,for I married him for time and eternity.

115 Q:-Well that is not the ceremony prescribed here,and that is what you say it was? A:-Well what you read there first is only for time.

116 Q:-Then there was another ceremony used,was there? A:-No sir.

117 Q:-There was not? A:-No sir,it was all the same,only it was for time and eternity. I told you that before. This is not a matter of time alone,for I go on beyond time,and I think there is such a thing as eternity,and very likely you will find out there is too before you are through with it.

118 Q:-Well in the ceremony that was used there,you say you were married for eternity too? A:-Yes sir.

119 Q:-For both time and eternity? A:-Yes sir,for time and eternity.

120 Q:-Was that in the ceremony? A:-Yes sir.

121 Q:-That which was contained in that ceremony was you were married both for time and eternity? A:-Yes sir, for time and eternity. All good Latter Day Saints when they are married calculate that they are married for time and eternity.

122 Q:-Well was that in the ceremony,-that is the question? A:-Yes sir,it was. Well now,I couldn't say that it was,but I think it was.

123 Q:-Was anything said about eternity in the ceremony? A:-I told you that to the very best of my ability and knowledge and recollection,I believed it was. That is the best I can do,for I have told you that my memory would not serve me as it once did. I have had a good deal of sickness and trouble and I can't remember every word that was said.

124 Q:-Well I have only asked you to refresh your memory

and tell me to the best of your knowledge,if you couldn't state the fact positively? A:-Well I have answered you the best I can.

I25 Q:-Now as a matter of fact do you recollect that anything was said about eternity? A:-Well that is what I calculate was said. It is what has been said in every marriage I had anything to do with,-it was fixed for time and eternity,-both time and eternity, for I considered time was very short and eternity was very lengthy,and I remember that.

I26 Q:-Well who else were you ever married to besides Mr. Joseph Smith? A:-I married Mr.Willes and had a family of children by him.

I27 Q:-Were you ever married to any body else? A:-No sir.

I28 Q:-What obligation did you take or assume at the time you were married to Joseph Smith? A:-I don't know as I understand the question. I have told you to the best of my ability just what I done,and how I was married to him,and I don't know anything more that I can tell you about it.

I29 Q:-If you were married to him for time and eternity how did it happen that you were afterwards married to Mr.willes? A:-Well have I got to tell you all about this?

I30 Q:-Yes madam,I think you have? A:-Well if I have to tell you I will say I married him for time. I married Mr. Willes for time,and when we meet in eternity we will settle that there,for that is something the laws of today have nothing to do with.

I3I Q:-You married one for eternity,and one,the father of your children,you married for time? A:-Well that is a matter we will settle afterwards,for that is a matter between God and ourselves,and not a matter that concerns this world.

I32 Q:-You have been with the church for a long time? A:-Yes sir,and I hope to continue faithful with it until I die.

I33 Q:-You were acquainted with most of the people,were you,that were there in Nauvoo? A:-At what time?

I34 Q:-At the time you lived there? A:-Yes sir,and I am thankful that I have been.

I35 Q:-And you were acquainted with quite a number of those women that claimed to be the wives of Joseph Smith? A:-Yes sir,and they were nice,respectable ladies too.

I36 Q:-Were you acquainted with any of the children of Joseph Smith?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial.

A:-Yes sir.

I37 Q:-Mention the names of them? A:-Well there was Joseph and Frederick and Alexander and David and Hyrum.

I38 Q:-You met all these? A:-Yes sir.

I39 Q:-Whose children were they? A:-Well they were supposed to be Emma Smith's and Joseph's.

I40 Q:-These were all children of Joseph Smith that he had by his wife Emma? A:-Yes sir.

I4I Q:-How many other children have you met? A:-I told you that I couldn't swear to any body else's children but my own,but I understand those were his children.

I42 Q:-Well now do you swaer to those four? A:-I was there in the house many a time and saw them,but I can't swear to them.

I43 Q:-Well have you met any other children of Joseph Smith's besides those you have mentioned? A:-I couldn't swear to anything of that kind. No one person is supposed to swear to anything of that kind,only what belongs to them.

I44 Q:-Can't you say if that is all the children he had,- that is,that Joseph Smith had? A:-I can't swear to anything about whose children they are. I can only swear to my own children and who their father is.
By Mr.Hall,-We object to all this testimony as not cross examination."
By Mr.Kelley,-
I45 Q:-Now I will ask you to state again,what or who,if any other children of Joseph Smith,you ever met? A:-I don't know that I ever met any.
I46 Q:-Yet you were acquainted with all these parties that claimed to be his wives? Did you not so state that you were acquainted with them? A:-I was acquainted with them,but I can't swear they were his wives, for I couldn't swear to anybody else only myself. I can't swear to any one else only myself,and that is what I was called here to do,and that is what I have sworn to. I only swear to what I know,and I do that to the best of my ability,for there is lots of things that have happened that I can't remember now.
I47 Q:-You have stated all the parties who were present at the time of your marriage with Joseph Smith? A:-Yes sir.
I48 Q:-That was your father and mother,and Joseph and Hyrum Smith? A:-Yes sir,they were there.
I49 Q:-Anybody else? A:-Yes sir,and my brother or sister too,that is dead and gone.
I50 Q:-Can you name these brothers and sisters,-just name them? A:-Joseph and Amanda Lott.
I5I Q:-Were those all that were present at that time? A:-Yes sir,as near as I can remember that was all that were there. There might have been others,but if there was I can't remember them. There was quite a good many around my father's house at the time,but I can't remember all that ~~[illegible]~~ were there,but I know those that I have named were there.
I52 Q:-And they are all dead? A:-Yes sir.
I53 Q:-Emma Smith was not there then? A:-No sir,she wasn't there.
I54 Q:-Were you married in accordance with the revelation on polygamy that is claimed to have been given by Joseph Smith? A:-The revelation that was first given out here,-that is,the revelation that they claim out here,was just exactly like the one that was in Nauvoo,and brother Joseph Smith was the one that taught it.
I55 Q:-And you were married without Emma Smith being present? A:-Yes sir.
I56 Q:-Don't you know that that alleged or pretended revelation,requires that the first wife shall be present? A:-Well she gave her consent.
I57 Q:-Is that the way the revelation states it? A:-Well I don't know.
I58 Q:-You don't know how that is? A:-I don't know any thing about it. I was married to Joseph,and it was all right or he wouldn't have done it that way.
I59 Q:-Now you say that Emma Smith gave her consent? A:-Yes sir.
I60 Q:-Who said that she gave her consent? A:-My father and mother.
I6I Q:-Did they go to Emma Smith and get her consent? A:-I don't know that they went to her or she came there. I know they were both there at the time with brother Joseph,-father and- mother,-the whole of them,talking a good many times.

I62 Q:-You were married under that revelation which states that the first wife shall take the hand of the one to be sealed,and place it in the hands of her husband,and Emma Smith did not do that,for she was not there? Is that not the fact? Do you want to be understood as saying that? A:-I came here intending to tell the truth and nothing but the truth,and so far as I have been able I have told the truth.

I63 Q:-Is there any doubt in your mind as to that? A:-No sir,what I have told is what I know to be the truth.

I64 Q:-Well was that done? A:-No sir.

I65 Q:-Did you read that revelation when you were at Nauvoo? A:-No sir,-did I read it at Nauvoo?

I66 Q:-Yes madam? A:-Yes sir.

I67 Q:-Where did you got it? A:-I got it from Joseph Smith.

I68 Q:-How you are sure of that? A:-I am.

I69 Q:-Was it in print,or was it in manuscript? Just answer that question? A:-Well it was in writing,-it was in manuscript.

I70 Q:-Was that revelation ever presented to the church there at Nauvoo,according to your knowledge,for acceptance?

Counsel for the defendants objects to the question asked the witness for the reason and on the grounds that it is incompetent for the reason that the witness has stated,or it does not appear that that is a matter that the witness has any knowledge of,and is improper cross examination.

A:-No sir,I don't know anything about that. I heard it spoken of as going to be presented,but it was not presented according to my knowledge.

I71 Q:-Was it presented,to your knowledge,at any time,to the church there at Nauvoo?

Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons above set forth in the last objection.

A:-Well I can't remember that it was.

I72 Q:-I say to your knowledge was it presented to the church there at any time at Nauvoo? A:-Well to my ~~kno~~ knowledge I can't say that it was.

I73 Q:-Do you remember when it was presented here in Salt Lake City to the church? A:-No sir,I can't remember that.

I74 Q:-Do you remember whether it was or not? A:-Well I would not say that it was. I think it was,for I have seen it in print and have read it in print. I have seen it published in print,but I haven't always been to every conference,or every meeting,and I have had a great deal of sickness and trouble in my life,and have not been permitted the privilege of attending a great many of the public meetings,and that is the reason that I can't give as definite an answer as I could if that hadn't been so.

I75 Q:-Was it the law of the church prior to the giving of that revelation that the church would permit a man to have one wife only,or more than one wife?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and calls for testimony that is not cross examination based on testimony given in her direct examination.

A: I have given my evidence to the very best of my ability,and I don't know that I can say anything more.

I76 Q:-Answer the question please? A:-What is the question?

177 Q:-Was it the law of the church prior to the giving of that polygamous revelation,that the church would permit a man to have one wife only,or more than one wife? A:-Well not until that revelation was given.

178 Q:-They could not have but one wife until after that revelation was given? A:-Yes sir.

179 Q:-Until the time that that revelation was given there could not,-one man could have but on wife? A:-Yes sir.

180 Q:-And that revelation was never presented to the church,as you have stated,during the life-time of Joseph Smith? A:-No sir,I did not state that.

181 Q:-Well what did you state? A:-I said in the life-time of Joseph Smith it wasn't presented to the church to my knowledge. I did not say it was not presented,but I know it was spoken of a good many times in his day,and I have told you that he was the one that preached it,and taught it to me.

182 Q:-You were a member of the church,-were you not? A:-Yes sir.

183 Q:-The law of the church requiring that one man should have but one wife was in force when you was a member? A:-Yes sir.

184 Q:-And you now state that you broke that law? A:-No sir. You know there was a revelation given to him to do so and so,and he told me of that revelation and I received it as law,for it came from Joseph the prophet.

185 Q:-Yes I understand,but you say that revelation was not received by the church to your knowledge? A:-Well it was received by the majority of the church I think.

186 Q:-Who received it? A:-Why Joseph Smith received it, and he was the one that showed it to a great many others.

187 Q:-You stated that that revelation was never presented to the church to your knowledge? A:-Well I say I have seen it and read it,and heard it spoken of by a great many in the church,but whether it was published to the whole of the church,I could not say.

188 Q:-Don't you know it could not be a law to the church until it was presented to, and accepted by the church? A:-Well the fact is I don't know near as much about those things as I wish I did,and I don't remember as well as I used to remember things,for if I did I could tell you a great deal more than I can do now.

189 Q:-If you and Joseph Smith were married,and he had a wife living,before the church had accepted that revelation as a part of the church articles,were you not both violators of the law of the church? A:-No sir.

190 Q:-You were not? A:-I don't think we were.

191 Q:-You don't think you were? A:-No sir,I don't think we violated any of the laws of the church,or the laws of the land.

192 Q:-Do you wish to stand in the attitude of holding yourself out to the rest of the members of the church that you were a good member of the church, when you have married a man who has a wife living, and the rest of the members of the church hold that a a man can have but one wife living at a time? A:-Well it is not that way today,for today a man can have but one wife,and that is the law of the church; but there was a revelation and received by the church ,and lived up to by the church at that time,by which a man could have more than one wife,but that is not the law of the church now,as I understand it; but if everybody would live up to the laws of the church in those days they would live a great deal better than the majority of them do today,-a blamed sight better.

193 Q:-Did you use the words "a blamed sight better" in your testimony just now? A:-Well now don't ask me no questions that I can't answer. You have worried me so that I don't know what I say,but I am telling the truth all the time. As for education I haven't had but very little,and I have done the very best I could with I did have,and I have done the very best I could in answering all the questions you have asked me,and if I happened to make a little mistake in a word or two,I think that ought to be considered as ignorance on my part.

194 Q:-Then you wish to be placed upon record here Mrs. Willes as having married a man under the laws of the church that required that one man should have but one wife,and at that time the church had never accepted any other law but that? A:-No sir.

195 Q:-You did not? A:-No sir,I didn't say so.

196 Q:-Did you not say that you married a man at a time when he had another wife living? A:-I say that when revelation was given it was given right and lawful, and it was right and lawful and our duty for us to obey that revelation and live our religion.

197 Q:-What revelation do you refer to? A:-That revelation that Joseph Smith got.

198 Q:-That is the revelation which permitted a man to have more ~~wives~~ than one wife? A:-Yes sir.

199 Q:-You say that when that was given you considered it right and lawful for you to marry a man that had at the time a wife living? A:-Yes sir.

200 Q:-And that is what you called living your religion? A:-Yes sir.

201 Q:-But you- stated that the church at that time had not accepted the revelation? A:-I said I did not know,but under the circumstances I hadn't been permitted to go to a great many public meetings or attend conferences. I generally calculated to do so, but owing to a great many different things,sickness and death and trouble of one kind and another I was unable to do so. On this account I haven't been permitted the privilege of attending a great many public meetings,and I can't swear as to what was done only what I saw,or about any other woman's dbings only Melissa Willes' doings,and what she did herself. And that is what I have done here today. What I have stated here today is what I know to be facts,and you can't get me to say anything else.

202 Q:-Well Mrs.Willes,I will say that all that it is necessary for you to do is to answer the questions we ask you. It seems to me that you are making a good deal of trouble for yourself,and saying a great deal more than is necessary. All that is necessary for you to do is to answer the questions I ask you,but of course if you want to make these explanations you can do so,-I will not object? A:-Well I have said all I have to say.

203 Q:-Now when you were asked to become the wife of a man who already had a wife,did you not tell him it was contrary to the laws of the church for you to marry him? A:-No sir.

204 Q:-Why didn't you? A:-I didn't tell him that because I believed he had a revelation from God to do thus and so. He told me so and I believed him,and I believe it yet. I still believe he had a revelation from God to do that,-he told me so and I believed him and that was the reason I married him.

205 Q:-And that is the reason you married him? A:-Yes sir and I done the very best I knew how,then and always. I have tried to live my faith and religion the very best I could,and I will still try to live it to the end.

206 Q:-You married him,knowing that he had a wife living, at a time when you say you knew the law of the church was to the effect that a man should have but one wife? A:-Yes sir,but that was after the revelation was given,-I didn't marry him until after that.

207 Q:-But you say that you did not know that that revelation,-when that revelation was presented ~~XXXXXX~~ to the church? A:-Well I gave you my reasons,-it was on account of sickness and death and trouble,that I was not able to attend many public meetings,and so I was not as well informed as I ought to be on these things. It was on that account that I have not been permitted to attend very many public meetings neither in Nauvoo or Salt Lake City,-not nearly as many as I would like to have attended,and I said to the best of my recollection I could not swear to any such a thing

208 Q:-Have you been taught that you may receive in private a doctrine,as a good member of the church,before that doctrine was presented to the church? A:-Before it was presented to the church did you say?

209 Q:-Yes madam? A:-What for?

210 Q:-Before it was presented to the church for acceptance? A:-I think that doctrine was accepted in a noble way,-

211 Q:-Have you been taught that you might,as a good member of the church,receive and practice a doctrine,before that doctrine had been presented to the church? That is the question for you to answer? A:-Well I don't think I have. I think I did the very best I knew how.

212 Q:-You don't think you have been taught that way? A:-I don't think I have been taught anything only what is true and right and correct. Now that is the way I answer that question,and if I don't get the understanding of your meaning I can't help it,for that is the best I can do.

213 Q:-Well I will ask you to state again,if you married a man under the laws of the church,that you say required at that time,bonogamy or monogamous marriage, that is a law which permitted a man to have but one wife,and a woman but husband,-before the giving of this revelation,-and before the church ever received that revelation as a part of its doctrine,to your knowledge?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,not proper cross examination,and a repetition of matter already inquired into.

A:-I think it was acknowledged when I was married to him.

214 Q:-What was acknowledged? A:-I think that revelation was acknowledged by the church at that time,~~and I can't swear that it was,but that is my belief.~~

216 Q:-If it hadn't been acknowledged by the church,and you were married under it,in that event would you be a violator of the law of the church?

Counsel for the defendants objects to the question asked the witness on the ground that it calls for an opinion of the witness,and is incompetent,irrelevant and immaterial,and not proper cross examination.

A:-What is the question?

217 Q:-If it had not been accepted by the church at that time and made a part of the law at that time,would you not have been a violator of the laws of the church,and also would not Joseph Smith if he so acted with you? A:-I don't think I ever violated any of the laws of the church.

A-I think it was acknowledged by the church, but I can't swear that it was, but that is my belief.

219 Q:-Well now I insist upon answers to my questions? A:-I have answered you.

220 Q:-Well I beg to differ with you,-you do not answer my questions and I insist upon your doing so? A:-Well I have answered them as well as I know how. I have answered you the very best I know how.

221 Q:-Well I will try it again,-Mr.Reporter please read the question I asked,-as follows,-"If it had not been accepted by the church at that time,and made a part of its laws at that time,would you not have been a violator of the laws of the church at that time, and also would not Joseph Smith,if he so acted with you"? A:-Well I considered it was the laws of the church,and he was our prophet,seer and revalator,and he said that was the revelation he had,and he gave it to us,and told us it was right to do these things and so we violated no law of the church,for when he said that and had the revelation it was the law of the church. We did not violate any law at all,for that was the law of the church at that time,and the laws of the land also.

222 Q:-Well I object to that answer for it is not responsiv. to the question,and we move to have it stricken from the record for that reason. I will ask the question again,and possibly I may get an answer to it, although it seems to be rather hard work. If this revelation you speak of permitting a man to have more wives than one at the same time,had not been accepted by the church at the time of your marriage to Joseph Smith,were you and Joseph Smith not violating the law of the church when you so married? A:-Of course I would if it had not been the law of the church,-of course if it had not been the law of the church we would.

223 Q:-Joseph Smith as well as yourself would have been a violator of the laws of the church in that event? A:-Yes sir,of course that is so,but it was the law of the church,and we did not violate any law of the church.

224 Q:-Well you have answered that question all right,and that will do for that branch of the cross examination now you said there were no children born of that marriage? A:-I said I had none.

225 Q:-You had none by Joseph Smith? A:-Yes sir,and you asked me why I hadn't any and I told you I couldn't tell you,that you would have to go to some higher authority than I to tell you that.

226 Q:-Well you said I believe that Emma Smith had children by Joseph? A:-Yes sir. I told you that I supposed she had. They looked like their father but as to their being his I can't say. I can't swear to anything only Melissa's affairs.

227 Q:-Did you ever room with Joseph Smith as his wife? A:-Yes sir.

228 Q:-At what place? A:-At Nauvoo.

229 Q:-What place in Nauvoo? A:-The Nauvoo Mansion.

230 Q:-At what place in the Mansion? A:-Do you want to know the number of the room,or what?

231 Q:-Well just what part of the house the room was in if you can give it? A:-Well I can give it and the number of the room too. It was room number one.

232 Q:-Room number one? A:-Yes sir.

233 Q:-Who else roomed there? A:-I don't know of any one.

234 Q:-Where was Emma Smith at that time? A:-I don't know I didn't ask where she was.

235 Q:-Did you know where she was at that time? A:-No sir I didn't.

236 Q:-Did she know where you were at that time? A:-I did not ask her whether she did or not.

237 Q:-So you roomed with him in the Nauvoo Mansion in room number one? A:-Yes sir.
238 Q:-That was the house that Joseph Smith live d in was it not? A:-Yes sir.
239 Q:-And you don't know whether Emma Smith was in the house or not? A:-No sir.
240 Q:-And you can't say whether she knew where you were? A:-No sir, I couldn't say where she was,and I don't know that she knew about me,for I did not speak to her.
241 Q:-Well was she at home? A:-Yes sir.
242 Q:-How do you know? A:-She was there when I see her last.
243 Q:-What time was that? A:-That I saw her?
244 Q:-Yes madam? A:-I can't tell you the time. If I had thought I was to be asked all these questions I might have kept a note of all these things,but as I didn't know anything about this examination I didn't.
245 Q:-How often did you room there with Joseph Smith? A:-Well that is something I can't tell you.
246 Q:-Well was it more than once? A:-Yes sir,and more than twice.
247 Q:-Well that is something I would like to know? A:-Well there is something I would like to know. If I am to be asked these questions I would like to know if I am to answer them. I have told you all about this thing that I know,and I can't see any reason in your worrying me with these questions,and I would like to know if I have to answer them?
248 Q:-Well if you decline to answer them say so,and that will do? A:-I don't decline to answer any question that I know anything about.
249 Q:-Well answer that question then? A:-What is the question?
250 Q:-I asked you how many times you had roomed there in that house with Joseph Smith? I do not expect you to answer positively the exact number of times,but I would like to have you tell us the number of times as nearly as you can remember it? A:-Well I can't tell you. I think I have acted the part of a lady in answering your questions as well as I have,and I don't thinx you are acting the part of a gentleman in asking me these questions.
251 Q:-Well I will ask you the question over again in this form,-was it more than twice? A:-Yes sir.
252 Q:-Well how many times? A:-I could not say.
253 Q:-Did you ever at any other place room with him? A:-In what way.
254 Q:-Of course I mean as his wife? A:-Yes sir.
255 Q:-At what place? A:-At my father's house.
256 Q:-At other places did you ever room with him as his wife? A:-Well now I think that is all the places it is necessary for me to answer you one way or the other. I think I have answered plenty of questions on that matter,and all that it is necessary for me to answer,and all that you should require of a lady when you know is telling the truth as best she can.
257 Q:-Did you ever room with Joseph Smith at any other place or places than at the Nauvoo Mansion and your father's house,-that is did you ever room with him as his wife? A:-Them is all the places I remember.
258 Q:-Those are the only places you remember? A:-Yes sir.
259 Q:-Now at the times you roomed with him,did you cohabit with him as his wife? A:-Yes sir.
260 Q:-And you never had any children? A:-No sir,I answered that question before and told you no.

261 Q:-You want to go on record here as saying that you cohabited with a man as his wife,and know at the time you did that he had a wife living,and you don't know whether there was any law of the church or land permitting it at all? Is that the way you want to go on record here?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper cross examination.

A:-I told you that it was the law of the church at the time,-I considered it the law of the church and it was all right,for I have always lived correctly.

The hour of twelve o'clock noon having arrived,the further hearing of the testimony of the above witness was continued until the hour of 1:30 o'clock P.M. at which hour come the parties aforesaid,and the further cross examination of this witness was continued by Mr.E.L.Kelley.

It was agreed and stipulated by and between the parties hereto as aforesaid that the signature of the witness to the short-hand notes of her evidence should be,and the same is hereby waived,as well as the signature of this witness and the signatures of all other witnesses whose testimony may be taken,or has been taken in Salt Lake City to their testimony when transcribed by the examiner taking same,shall be and the same is hereby waived. The above agreement applies to the witnesses introduced by both parties hereto.

262 Q:-I will ask you Mrs.Willes what time it was,if you can state it,that you met the present Joseph Smith down at Lehi? A:-Down where? A:-

263 Q:-Down at Lehi? Did you not say it was at Lehi?

Counsel for the defendants objects and excepts to the re-introduction of this witness for further cross examination,on the ground and for the reason that at the time of the adjournment for noon counsel for plaintiff conducting the cross examination announced that he had concluded the examination of the witness.

(At the time of adjoutnment for noon as above set forth, counsel for plaintiff,Mr.E.L.Kelley,immediately after the close of the answer of the witness above set forth in answer to question number 261,remarked "that is all" as appears in my short-hand notes,but as it was not in the form of a question,and appeared irrelevant,the Examiner omitted it from the transcript,and now states the fact in connection with the objection made by the defendants.)

264 Q:-Mention the time as nearly as you can? A:-Well I think it was about four years ago,but I wouldn't say it was then,because I do not remember just when it was,but he was here at the time,and was over at my house,and then he went on down to Beaver by himself, and then came back and called at my house again.

265 Q:-Was it at your house that he had the conversation with you that you referred to? A:-Yes sir.

266 Q:-I will ask you now if he did not state,-if you did not state to him I should say,at that time and place and in that conversation,that you were not married to Joseph Smith,but sealed to him for eternity,and that he never,-? A:-No sir,I don't think I told him any such thing. I answered him just exactly as I have answered you here today about it,-sealed or married whatever you have a mind to call it; and I quoted over the very ceremony as near as I could to him at that time,but today I can't do it for I am nervous here today,and I can't remember it,but I told him then all about it. I told him the same story that I have told you here about being married to his father.

267 Q:-And did you not tell him further at that time and place and on that occasion that his father never solicited you to have anything to do with him? A::-I didn't tell him anything of the kind. I told him the same as I have answered you here today,and he wouldn't say but what I told him the same as I have told you here today if he was here either. He would not say that I told him anything different if he was here today.

268 You did not tell him that? A:-No sir,I didn't,and I say if he was here he wouldn't tell me that I told him anything different from what I have told you to day.

269 Q:-Well that is all. I am done this time.

Witness fees,including mileage $4.70 paid by defendants

Lorenzo Snow,of lawful age,being produced and sworn on the part of the defendants,testifsid as follows,-

Direct examination by Mr.Cabell,-

I Q:-What is your name? A:-Lorenzo Snow.

By Mr.Hall,-Have you any witness or witnesses here in the room that you propose to examine Mr.Kelley? If so I ask that the rule excluding them from the room during the progress of this examination be enforced against them."

By Mr.P.P.Kelley,-"No sir,and when we begin to take testimony again we will exclude all witnesses from the room."

By Mr.~~SMMMIX~~ Hall,-

2 Q:-As I know more about this probably than you do Mr. Cabell,if you have no objections I will examine this witness. Where do you reside Mr.Snow? A:-At Brigham City.

3 Q:-Is that in Utah Territory? A:-Yes sir.

4 Q:-Where did you reside before removing to that place? A:-In Salt Lake City.

5 Q:-Where did you reside before you came here to Salt Lake City? A:-In Nauvoo,Illinois.

6 Q:-What church,if any,were you a member of at that time? A:-At the time I lived in Nauvoo?

7 Q:-Yes sir? A:-The Church of Jesus Christ of Latter Day Saints.

8 Q:-I will ask you to state Mr.Snow if you knew who was the president of that church at Nauvoo at the time you lived there?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading, and immaterial.

9 Q:-You may answer the question? A:-Joseph Smith.

10 Q:-I will ask you to state Mr.Snow,what office Joseph Smith held in the Church of Jesus Christ of Latter Day Saints at Nauvoo Illinois,at the time that you lived there? A:-Well he was the president. He was recognized as the president of the church.

Counsel for the plaintiff objects to the answer of the witness,and moves the court to exclude the same from the record on the grond that it is incompetent,and not responsive to the question.

11 Q:-I will ask you Mr.Snow to read that affidavit,and see if you can identify it as an affidavit,executed or sworn to by you?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial.

A:-It is found on page two hundred and twenty ~~one~~ two,and "plural marriage" seems to be the title of it. Shall I read it?

12 Q:-Yes sir you may read it?

Counsel for the plaintiff objects to the witness reading the article or affidavit referred to, or the incorporation of same in the record on the

ground that it is not identified as being a part of any particular book, paper or periodical, and for the reason that it is incompetent, irrelevant and immaterial, and there is no issue in this case under which the same could by legally admitted.
A:-Yes sir, that is my affidavit,-that is the affidavit I swore to.
13 Q:-Can you identify that as a copy of the affidavit you made? A:-Yes sir, as nearly as I can remember that is it.
14 Q:-Will you read it if you please?
Counsel for the plaintiff renew their objection to the reading of the affidavit referred to in the question and on the further ground that it is not the best evidence.
A:-I notice there is some words that are partially obliterated here, apparently by the fastening to the opposite page. "Apostle Lorenzo Snow's testimony. The following affidavit was made before J.C. Wright, Clerk of Box Elder County, Utah, August 26th 1869. It is as follows,-"In the month of April 1843, I returned from my European mission. A few days after my arrival at Nauvoo, when at President Joseph Smith's house, he said he wished to have some private talk with me and requested me to walk out with him. It was towards evening, and we walked a little distance and sat down on a large log that lay near the bank of the river. He then and there explained to me the doctrine of plurality of wives. He said that the Lord had revealed it unto him, and commanded him to have women sealed unto him as wives,-that he foresaw the trouble that would follow and sought to turn away from the commandment, that an angel from heaven appeared before him with a drawn sword, threatening him with destruction unless he went forward and obeyed the commandment. He further said that my sister Eliza R. Snow had been sealed to him as his wife for time and eternity. He told me that the Lord would open the way, and I should have women sealed to me as wives. This conversation was prolonged I think one hour or more, in which he told me many important things. I solemnly declare before God and the holy angels, and as I hope to come forth in the morning of the resurrection, that the above statement is true. Signed, Lorenzo Snow."
By Mr. P. P. Kelley,-"We move the court to exclude what the witness has just read from the record for the reason that it is incompetent, irrelevant and immaterial, for the further reason that the book, pamphlet or publication from which the witness read, or the document from which he read, has not been identified or placed in evidence, and for the further reason we object to it on the ground that under the statutes of the United States it is inadmissable, being a declaration between a party living and a party dead, and for the further reason that there is no issue in this case and it is also in violation of the statutes of the state of Missouri under which this case will be tried the same prohibiting declarations between a party living and a party dead."
By Mr. Hall,-
15 Q:-Will you state to the reporter Mr. Snow if you are the man that made that affidavit? A:-Yes sir. I am the man.
16 Q:-Were you the one that swore to it at that time?
A:-I am the one that swore to it before Judge Wright of Box Elder County, at Brigham City.
17 Q:-Can you state to the reporter that that is exactly the statement you swore to at that time?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and

immaterial and leading.

18 Q:-Answer the question? A:-Well yes,that is as near as I can remember it.

19 Q:-That is as near as you can remember it? A:-Yes sir Of course I can't swear exactly to every word of it, but that is it in substance,precisely and exactly. I can swear to it in that way.

20 Q:-After reading that and refreshing your memory,can you state to the reporter that the statements made therein are true?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and leading

A:-Most assuredly I can.

21 Q:-Will you state to the reporter Mr.Snow,what official position you hold,-what official position you held in the church at Nauvoo,Illinois? A:-I was what was called an high priest.

22 Q:-You were an high priest? A:-Yes sir.

23 Q:-Will you state to the reporter Mr.Snow,if you were acquainted with the principle of plural marriage while you were living there at Nauvoo Illinois?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is immaterial and incompetent,-suggestive of the answer required and leading.

A:-I was very intimately acquainted with the principle,so far as it,-so far I will say as it was to be understood by the church,and I was made familiar with it by the direct preaching or rather teaching of the Prophet Joseph Smith.

24 Q:-Will you state to the reporter what difference there is,if any,in the principle of plural marriage, or as it is sometimes called,polygamy,as taught in the church at Nauvoo,Illinois,while you were there, and the principle as it was taught in the church of Jesus Christ of Latter Day Saints under the presidency of Brigham Young,after you came out here to the Salt Lake Valley?

Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immaterial and leading.

A:-It was precisely the same.

25 Q:-It was the same? A:-Yes sir,precisely,-there was no difference.

26 Q:-I will ask you Mr.Snow to state to the reporter what difference,if any,exists between the doctrines of the church of Jesus Christ of Latter Day Saints as they were at Nauvoo,Illinois,while you was there, and the doctrines of the church of Jesus Christ of Latter Day Saints in the territory of Utah,after removing here?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent and immaterial,and the witness is not competent to testify as to the difference.

A:-I know of no difference.

27 Q:-Will you state to the reporter Mr.Snow,whether or not you have been a member of the church,-how long have you been a member of the church of Jesus Christ of Latter Day Saints? A:-About fifty-six years. I joined the church in Kirtland in June 1836.

28 Q:-And you have remained a member of the church ever since? A:-Yes sir.

29 Q:-I will ask you to state Mr.Snow,what difference there is,if any,in the doctrine of tithing,as taught in the church of Jesus Christ of Latter Day Saints before the death of Joseph Smith,and as taught in the church in Utah at the present time?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and on the further ground that the witness is not competent to testify.
A:-I know of no difference.
80 Q:-I will ask you to state Mr.Snow what difference,if any,exists in regard to the teaching and practice of baptism for the dead,as taught and practiced in the church of Jesus Christ of Latter Day Saints before the death of Joseph Smith,and as taught and practiced in the church of Jesus Christ of Latter Day Saints in Utah territory at the present time?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that the witness has not shown his competency to testify,and on the further ground that it is incompetent,irrelevant and immaterial.
A: The practice is the same.
81 Q:-Will you state to the reporter Mr Snow,what office you hold in the church at the present time? A:-President of the twelve apostles.
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and moves the court to strike out the answer of the witness for the same reasons.
82 Q:-Have you been an officer of the church for several years? A:-Yes sir.
83 Q:-For how long,have you been an officer of the church and if so,state the office or offices you have held in the church?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and does not call for the best evidence.
A:-Well about fifty eight years.
By Mr.Cabell,-
84 Q:-Mr,Snow state what offices in the church you-held, and when you held them?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons as set forth in the last objection to the question to which objection was made.
A:-The first office I held was in Kirtland,-I think in the thirties,-it might have been in the latter part of '36,-if not it was in the fore part of thirty seven I think,and I was then ordained an elder,until I received the office of seventy,and directly afterwards,within a few days,two or three days,I was ordained to the office of high priest. That was in Nauvoo,Hancock County,Illinois,and it was in the year '39. It was in the fall of '42 just about as I was leaving for my European mission.
85 Q:-Was that '39 or '49,-you said '49 and I thought you were probably mistaken? A:-Yes sir,I meant to say '39.
By Mr. Hall
86 Q:-Go on now and state the rest of the offices you hold,and when you were appointed to them? A:-Well in September,-let me see,-I think it was in February 12th in '49. I wouldn't be positive,but I think that was the date,-here in Salt Lake City I was ordained an apostle.
87 Q:-That is when you were ordained an apostle? A:-Yes sir,but my memory is not so very extraordinary on these matters, but I think I am right

in reference to this latter matter.
38 Q:-Will you state to the reporter Mr. Snow, whether or not there was any talk among the members, or officers of the church of Jesus Christ of Latter Day Saints at Nauvoo, during the life-time of Joseph Smith about this principle of plural marriage, or what is commonly called polygamy?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and calls for hearsay evidence.
A:-Yes sir, there was some talk on that subject.
39 Q:-What kind of talk? A:-There was a good deal of talk upon the subject at that time, but it was not public. I have no recollection of the principle being taught publicly, but it was understood among the quorum of Twelve, of which I had a pretty good opportunity of learning, and amongst other parties who were officers of the church.
40 Q:-I believe that is all the questions I care to ask this witness.
Cross examination by E. L. Kelley.-
41 Q:-Mr Snow, what time did you state that you went off on your eastern mission? A:-What time did I go?
42 Q:-Yes sir. What time did you state you went on that mission,-eastern or European mission? A:-The European mission?
43 Q:-Yes sir? A:-The English mission?
44 Q:-English or European,-whatever you choose to call it? A:-It was in the fall of '39.
45 Q:-You were sent out to represent the doctrines of the church? A:-Yes sir. Well yes sir, I may say I was, but there is some qualification to that, for I was sent out to preach the first principles of the church. We were generally confined to first principles when we went on missions.
46 Q:-Your instructions,-were you confined to that when instructing members of the church? A:-No sir, no sir. It was for,-well you haven't asked me the question.
47 Q:-Well what was the law of the church at that time with reference to marriage? A:-When I first went out?
48 Q:-Yes sir? A:-On the mission?
49 Q:- Yes sir? A:-I don't know. There was no law in reference to marriage.
50 Q:-There was no law in reference to marriage? A:-No sir.
51 Q:-There was not? A:-No sir, not that I recollect of.
52 Q:-The church had not spoken on that question in any way to your knowledge? A:-In reference to plural marriage do you mean?
53 Q:-No sir, I mean what I say,-the law in reference to marriage? A:-I believe there was some instruction given that was embraced in the book of doctrine and covenants. That is all that I recollect of.
54 Q:-There was no law of the church upon the subject then? A:-No sir. Do you mean legally,-giving all the several authorities.-
55 Q:-The law of the church is what I refer to? A:-The creed of the church do you mean?
55 Q:-Well did you have a creed? A:-Yes sir.
57 Q:-What was the creed? A:-You will find it in the book of doctrine and covenants I guess.
58 Q:-Is that the creed? A:-Yes sir, I suppose it was.
59 Q:-The creed was in the book of doctrine and covenants A:-That was in part. It was the creed governing the church at that time.

60 Q:-Did you teach when you went out at that time that a man could have more wives than one? A:-No sir.
61 Q:-You did not teach that doctrine at that time? A:-No sir.
62 Q:-It would have been contrary to the church articles or laws to have done so,wouldn't it Mr.Snow? A:-It would be considered that a person teaching such a principle at that time would be liable to experience the church discipline.

By Mr.Cabell,-"We object to all evidence that may be attempted to be extracted from this witness on the question as to what the doctrines of the church have been at any specified time or time unspecified,on the ground that it is not the best evidence,-the books themselves being the best evidence."

By Mr Kelley,-
63 Q:-Did you marry persons that you were on your mission at that time? A:-That is the mission of '38?
64 Q:-Yes sir? A:-No sir.
65 Q:- ou performed no ceremonies of marriage? A:-No sir.

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that it is incompetent,irrelevant and immaterial,and does not pertain to any of the issues involved in this case.

66 Q:-Now you got the ceremony for the performance of the marriage you that was provided by the church at that time? A:-There was no special ceremony that I was aware of at that time.
67 Q:-"A p[illegible] was provided? A:-No sir.
68 Q:-What time did you return to Nauvoo from that European mission? A:-In the spring of 1843.
69 Q:-For early in the spring? A:-In April. About the middle of April.
70 Q:-How long, after your return did you state it was who you had this conversation with Joseph Smith? A:-Well it might have been five or ten days.
71 Q:-Well which was it,-five or ten days? A:-I presume it, it did not have been over ten days. No I don't think it was over ten days. It was a short time after my return.
72 Q:-It was in the month of April then? A:-Yes sir,it was in April.
73 Q:-And at that time you stating that he told you that he had already taken your sister as a wife? A:-Yes sir,that was the statement he made to me in this private interview,that is related in that affidavit.
74 Q:-Did he say that she was taken as a wife and married to him,or did he say that she was sealed to him? A:-Sealed to him.
75 Q:-Sealed to him? A:-Yes sir.
76 Q:-For sealed to him? A:-For time and eternity.
77 Q:-Did he use the word "time" as well as "eternity"? A:-I think so,but I couldn't say positively. That was distinctly understood you know. I believe,-I could say that I solemnly believe so to the best of my knowledge,because that is a term that is generally used in the matter when the question of plural marriage is spoken of in reference to sealing "for time and eternity". That is the way it is generally referred to you know,in speaking of the matter of plural marriage.
78 Q:-And that is the reason you state it now? A:-Yes sir and I believe he used it,for I solemnly believe he used these two words "time and eternity."
79 Q:-You were not acquainted with the principle of sealing at that time? A:-No sir.

80 Q:-You were not? A:-No sir,for I have,-I had never heard of it before.
81 Q:-You were very soon after you arrived there then? A:-No sir.
82 Q:-For long after you arrived there was it that you saw the ceremony performed? A:-I never saw the ceremony performed in the days of Joseph.
83 Q:-You never did? A:-No sir,I never did.
84 Q:-Did you know anything about the principle in the days of Joseph? A:-What principle?
85 Q:-The principle of sealing? A:-No sir,only I knew there was such an ordinance,but I did not know anything about the form or words used,or anything about it in that way.
86 Q:-Well didn't Joseph tell you on this occasion that you had the conversation with him? A:-No sir.
87 Q:-Well what did he tell you? A:-He told me the principle of plural marriage for time and eternity was a revelation from God,and he was commanded to put it into practice,and that my sister had been sealed to him,and other parties had been sealed to him.
88 Q:-He told you that your sister had been sealed to him? A:-Yes sir.
89 Q:-For time and eternity? A:-Yes sir.
90 Q:-And that other parties had been sealed to him for time and eternity? A:-Yes sir,but he did not name any of them. He did not name any of them but my sister,Eliza R. Snow. Yes he did name some of them too. I remember that now.
91 Q:-Well he did tell you about sealing on this occasion? A:-Yes sir,he told me all about it,but as to the words used,or the ceremony I don't know anything about it from what he told me then.
92 Q:-Did he tell you whether or not a man could be sealed to another man,and a man's family? A:-No sir he said nothing about that.
93 Q:-So you know whether or not that was the case from your knowledge? A:-This is the first time I ever heard of it.
94 Q:-Heard of what? A:-Of one man being sealed to another
95 Q:-You never heard of a family being sealed to another family? A:-Yes sir,I have heard of it in this way.-I have heard of children being sealed to adults.
96 Q:-Did you ever hear of a man's wife being sealed to him? A:-Yes sir.
97 Q:-You have heard of that? A:-Certainly I have heard of women being sealed to men,but of men being sealed to one another,I never heard of that until now.
98 Q:-Was it not common to seal a man's wife to him,-that is was not the principle common after Joseph's death and was it not practiced in the church at that time? A:-Certainly. Now do I understand you to ask me the question about a man being sealed to a man?
99 Q:-Yes sir? A:-In what way?
100 Q:-Sealed to one higher in authority,so the whole family could be his in eternity? A:-You ask me if I now know or ever did know anything about a man being sealed to a man,and I say no,I never knew or heard of such a thing as that.
101 Q:-This is the first time that you have learned that in the church there was such a principle as plural marriage,to be acceptable or to be accepted? A:-Well as you ask that question I say no. It is not the first time I have heard of the principle. I have heard of these principles before,but not exactly as you put your question.
102 Q:-When was the first time? Well about three days be-

fore that time. There was a man by the name of Sherwood, an intimate friend of mine, and he was a great friend to Joseph Smith, -an intimate friend to him in Kirtland, and there I became acquainted with this man Sherwood, and he came here to Salt Lake City, and became the President of the high priest's quorum.

103 Q:-Well never mind that? A:-Well I want to tell you something about the man for he had something to do with this matter, and for that reason I want to tell you something about him.

104 Q:-Well I don't want to hear it, for whatever he told you could be hearsay? A:-Well sir, I am getting old, and you must let me be a little like a woman and give me a little latitude, and if you do that I will come out all right and tell you these things so you can understand them distinctly.

105 Q:-Well then go ahead, -that is all right A:-Well I had only returned to Nauvoo a few days, -two or three days, four or five days, and I called on this gentleman Mr. Sherwood, and had quite a chat with him, and he asked me to step out to one side, and he said this, -

Counsel for the defendants objects to the answer of the witness on the ground that it is hearsay and incompetent.

106 Q:-Well I know it is, but the witness desires to tell his story in his own way. We object to it as hearsay but it seems he will tell it that way anyway.
A:-Well this man Sherwood said to me "Lorenzo", calling me by my name, -he called me by my given name, and he said "Lorenzo I want to tell you something, to prepare your mind, he said "I have no right to tell you this but I will do it to prepare your mind" and then he went on and explained those principles to me.

Counsel for the plaintiff objects to the answer of the witness and moves the court to exclude the same from the record on the ground that it is irrelevant and immaterial and hearsay, and not responsive to any question asked the witness on cross examination.

107 Q:-Then Joseph Smith was not the first person that explained those principles to you. That is the fact is it, not? A:-No sir, he was not, -not if you consider the other man as being an authority at all equal to Joseph Smith.

Counsel for the plaintiff objects to the answer of the witness for the reasons above given, and moves the court to exclude the answer from the record for the same reason.

108 Q:-What time did you live in Kirtland, Ohio? A:-I was there in '36.

109 Q:-Were you there at the time of the convening of the General Assembly? A:-No sir. It was a few months before. I was there in the spring, and that you allude to by that meeting was probably in April. However I was not there at that time.

110 Q:-Look at that book and state if you ever saw it before? A:-I can't say that I ever saw that one.

111 Q:-Or one like it, -state the fact in that connection? A:-It was printed in 1835 I see, but I can't say whether I ever saw it before or not. I suppose however that I saw one similar to it.

112 Q:-Was that not an authorized work ~~XXXXXXXXXX~~ of the church at that time, when you belonged to it? A:-Well I would think so, but I would not swear to it. I would swear that I think it was from the fact that I see the witness here to their names published by F.J. Williams & Company at Kirtland, Ohio, in 1835. I could imagine that that was recognized as a book published by the church.

113 Q:-Now you say look at section one hundred and one in

the 1835 edition of the book of Doctrine and Covenants? A:-Yes sir,that is the paragraph with reference to marriage?

114 Q:-Yes sir. A:-Yes sir,here it is.

115 Q:-Was that not the law and doctrine of the church upon the question of marriage? A:-Yes sir,It was at that time.

116 Q:-It was at that time? A:-Yes sir.

117 Q:-You stated a while ago that you didn't know of any law? A:-No sir.

118 Q:-You did not? A:-No sir,I said it was probably in the book of Doctrine and Covenants.

119 Q:-I understood you to say when you were examined, that you did not think the church had ever spoken upon the question of marriage? A:-Well I thought you and reference to the ceremony that was used,when two persons came to get married,and I did not remember the ceremony,and I don't think that embraces the ceremony at all. What is it anyway?

120 Q:-Well you ought to be acquainted with it I think,-you were on a mission and you certainly ought to be acquainted with that? A:-Well I will ask you what it says,-you have looked it over.

121 Q:-Well you are the witness. Was there any special ceremony at that time? A:-At what time?

122 Q:-At the time you were with the church you speak of? A:-There might have been,but yet I don't think they were particularly confined to any particular words. If that is what you refer to I would like you to read it so that it might bring it back to my memory. I am getting old and I don't remember matters as well as I could like to.

123 Q:-I refer to the doctrine that a man could have more than one wife? A:-No sir,no sir,-I told you all the time that I didn't remember the words.

124 Q:-Well I will ask you the question that I put before, when you were out in 1889 were you instructed with reference to the law of marriage,to teach plurality of wives,or monogamy? A:-No sir,I received no instructions to teach plural marriage.

125 You did not receive any instructions to teach a plurality of wives? A:-No sir.

126 Q:-Was not monogamy the law of the church at that time A:-I was a bachelor and I never thought anything about marriage at all. I never expected to be married at that time,and I never once heard of it until I heard of this plural marriage business. I will answer your questions directly and to the point,if you will take to acquainted with them,-or ask them so that I can understand your meaning clearly.

127 Q:-At that time you were acquainted with the revelations of Joseph Smith? A:-Not all of them.

128 Q:-Are you now acquainted with the revelations of Joseph Smith? A:-Not all of them.

129 Q:-You were sent out to preach the doctrine of the church? A:-Partially,-I was sent out to preach first principles.

130 Q:-You were instructed and authorised to preach first principles only? A:-Yes sir,at that time I was.

131 Q:-Who represented the doctrines of the church? A:-Joe Smith.

132 Q:-Who represented them in Great Britian? A:-I represented all that the circumstances required in the situation I was placed in at various times,and I represented the doctrine of the church so far as its first principles were concerned,-such as faith,baptism and the laying on of hands,and where it required any special doctrine that was re-

quired to be understood, I explained it as best I could,-I explained it as I understood it.

133 Q:-Now this doctrine of the church with reference to marriage you said at first you did not understand that there was any such a doctrine? A:-I said I did not understand there was any special ceremony.

134 Q:-You say now you said you did not understand there was any such a ceremony? A:-Yes sir.

135 Q:-Now sir, I will get you to read the second paragraph of section one hundred and one, on marriage, in the 1885 edition of the Book of Doctrine and Covenants?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not pertinent to any of the issues involved in this case.

136 Q:-You may read it out aloud so that it may be incorporated in your testimony? A:-Do you want the entire section?

137 Q:-Yes sir, the entire section,-you may read it all if you so desire. To only care particularly for the second paragraph, but you may read the whole thing if you choose to do so, if it will assist you any?

A:-Well I'll read it all,-Section 101, marriage.

1st paragraph,-According to the custom of all civilized nations, marriage is regulated by rules and ceremonies, therefore we believe that all marriages in this Church of Jesus Christ of Latter Day Saints, should be solemnized in a public manner, on time, or feast prepared for that purpose; and that the solemnization should be performed by a presiding high priest, high priest, bishop, elder or priest but even prohibiting those persons who are desirous to get married of being married by other authority. We believe it is not right to prohibit members of this church from marrying out of the church, if it be their determination so to do, but such persons will be considered weak in the faith of our Lord and Saviour, Jesus Christ.

2nd,-Marriage should be celebrated with prayer and thanksgiving, and at the solemnization the persons to be married standing together, the man on the right and the woman on the left, shall be addressed by the person officiating, as he shall be directed by the Holy Spirit, and if there be no legal objections, he shall say, calling each by their names: "You both mutually agree to be each other's companions, husband and wife, observing the legal rights belonging to this condition; that is, keeping yourselves wholly for each other and from all others during your lives"? And when they have answered "yes" he shall pronounce them "husband and wife" in the name of the Lord Jesus Christ, and by virtue of the laws of the country and authority vested in him; "may God add his blessings and keep you to fulfill your covenants from henceforth, and forever. Amen."

3rd,-The clerk of every branch should keep a record of all marriages solemnized in his branch.

4th,-All legal contracts of marriage ~~[illegible]~~ made before a person is received into this church should be held sacred and fulfilled. Inasmuch as this Church of Christ has been reproached with the crime of fornication and polygamy, we declare that we believe that one man should have but one wife, and one woman but one husband, except in the case of death, when either is at liberty to marry again. It is not right to persuade a woman to be baptized contrary to the will of her husband, neither is it lawful to influence her to leave her husband. All children are bound by law to obey their parents; And to influence them to embrace any religious faith, or be baptized, or leave their parents without their consent is unlawful

and unjust. We believe that all persons who exercise control over their fellow beings,and prevent them from embracing the truth,will have to answer for that sin.

138 Q:-Now how do you harmonize your statement that the church had not spoken on it,-that is on the question of marriage,-after reading that section? A:-I told you that there might have been something spoken on it,but I didn't remember particularly what it was. I do not remember as to the precise words that were used when the woman stood up with the man to be married. I did not know there was any particularly necessity of strictly conforming to anything of that kind.

139 Q:-You were an elder of the church at that time? A:-Yes sir. I told you I was an elder of the church at that time.

140 Q:-They were authorized to perform the marriage ceremony? A:-Yes sir,I knew that,but I told you that I never married any one because I was a bachelor,and I did not believe in it so far as I was concerned. I suppose if I had been in the habit of marrying, I would have remembered about it,although I can't say that I would remember that it was absolutely necessary to adhere to any strict formula in performing the ceremony of marriage. I do not know that I would remember that it was absolutely necessary to confine yourself absolutely to any particular words in doing that,if the substance would be employed.

141 Q:-I will ask you to look at the revelation in section thirteen and read paragraph seven,Mr. Snow?

A:-And again I say unto you,thou shalt not kill,but he that killeth shall die. Thou shalt not steal,and he that stealeth,and will not repent,shall be cast out. Thou shalt not lie; and he that liethand will not repent shall be cast out. Thou shalt love thy wife with all thy heart,and shalt cleave unto her and none else; and he that lusteth for a woman to lust after her,shall deny the faith,and shall not have the spirit,and if he repents not he shall be cast out. Thou shalt not commit adultery; but he that has committed adultery and repents with all his heart,and forsaketh it,and doeth it no more,thou shalt forgive; but if he do it again he shall not be forgiven, but shall be cast out. Thou shalt not speak evil of thy neighbor,nor do him any harm. Thou knowest my laws concerning these things are given in my scriptures; he that sinneth and repenteth not shall be cast out."

Counsel for the defendants objects to the question asked the witness and the paragraph just read by the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and improper cross examination.

A:-I am willing the gentleman shall ask me any question he pleases,-I make no objection to it.

142 Q:-Do you recognize that as a doctrine of the church at the time you belonged to it? A:-Yes sir,it always has been and is today the doctrine of the church.

143 Q:-You recognize that as the doctrine of the church? A:-I do sir,entirely and fully.

144 Q:-Is that the doctrine that was taught by Brigham Young, here in the Valley,and the church here after his time,upon the marriage question? A:-I don't know whether it is or not.

145 Q:-You don't know whether it is or not? A:-No sir,-just let me look at it again.

146 Q:-Well ~~XXXXXXXXXX~~ this is the point,-"Thou shalt love thy wife with all thy heart and shalt cleave unto her and none else"? A:-Yes sir,that is right.

I47 Q:-That doctrine was taught? A:-Yes sir.
I48 Q:-It was taught here in the Valley by Brigham Young and the ones that succeeded him? A:-Yes sir,and I believe it fully and entirely. I endorse that absolutely.
I49 Q:-And Brigham Young taught that too? A:-I believe he did,sir.
I50 Q:-And the purported revelation taught it also? A:-Let me see. Read it again.
I51 Q:-Thou shalt love thy wife with all thy heart,and shall cleave unto her and none else,and he that look eth upon a woman to lust after her shall deny the faith,etc"? A:-Yes sir.
I52 Q:-And the purported revelation of 1843 is the same as that,-the polygamy revelation? A:-I think such a man has a dozen wives he can cleave to them all and love them all.
I53 Q:-You have not answered my question Mr.Snow,-I asked you if the revelation of 1843 taught the same as that I have just read?
Counsel for the defendants objects to the question asked the witness on the ground that it is irrelevant and immaterial and improper cross examination,-the revelation itself being the best evidence,and the question as framed calls for an opinion of the witness, and defendant moves the court to strike out any answer of the witness that may be given to the question for that reason.
A:-I apprehend there is no disagreement between the revelation of 1843 or '44,-I mean the revelation of 1843,-I apprehend sir,that there is no disagreement or difference between them when they are explained in connection. I believe sir,that they are in harmony.
I54 Q:-I will repeat my question,-does the revelation of 1843 that was accepted by the church to which you now belong,in 1852,contain the same teaching on the question of marriage as is contained in those sections you have read? A:-Well sir,I will answer that question right directly by saying that I think it does.
I55 Q:-I will read paragraph three from section sixty five in this connection,and it is in this same edition of the book of doctrine and covenants,being the 1885 edition? "And again I say unto you that whoso forbiddeth to marry,is not ordained of God,for marriage is ordained of God unto man; wherefore it is lawful that he should have one wife,and they twain shall be one flesh,and all this that the earth might answer the end of its creation,and that it might be filled with the measure of man,according to his creation before the world was made. And whoso forbiddeth to abstain from meats,that man should not eat the same,is not ordained of God; for behold the beasts of the field and the fowls of the air, and that which cometh of the earth is ordained for the use of man,for food and for raiment,and that he might have in abundance,but it is not given that one man should possess that which is above another; wherefore the world lieth in sin; and woe be unto man that shedeth blood or wasteth flesh,and hath no need"? A:-Yes sir.
I56 Q:-You recognize that as the teaching of the original church? A:-Yes sir,I recognize that.
I57 Q:-Was that the same as the teaching of the purported revelation of 1843? A:-One is more extensive than the other,but they don't disagree.
I58 Q:-Which is the more extensive of the two? A:-The last one.
I59 Q:-Which one is that? A:-The one which allows a man to have a dozen wives if he sees fit.
I60 Q:-It is considerably enlarged? A:-Yes sir,like it was

in the days of Jacob when he had four or five wives.

I61 Q:-You lived in Nauvoo in 1843 you say? A:-Yes sir.

I62 Q:-For how long? A:-Well I was there off and on, and was traveling from one place to another. I was traveling a good deal of the time from one place to another,but off and on I was there a part of the time. I was there most of the time I might say from '43 until we moved to the Valley.

I63 Q:-Were you there at the time of the death of Joseph Smith? A:-No sir.

I64 Q:-When did you first see the purported revelation on marriage? A:-Which one?

I65 Q:-There was only one as I understand it,-I refer to the purported revelation,-the revelation purported to have been given in 1843 and presented to the church here in Salt Lake City in 1852? A:-It was after,- well now I don't remember when I did see it. I don't recollect when I first saw it.

I66 Q:-Was it after it was presented here by Brigham Young to the church? A:-I could not say.

I67 Q:-Were you present at the time he presented here in the Tabernacle to the church or to the people? A:-What time was that?

I68 Q:-In 1852? A:-No sir.

I69 Q:-Where were you at that time? A:-I was in Italy I believe. I think I was either in Italy or in France.

I70 Q:-Had you seen it up to that time? A:-Yes sir,of course.

I71 Q:-You are positive you saw it before that time? A:-Yes sir.

I72 Q:-Where did you see it? A:-I can't remember. I can't tell you for I don't remember.

I73 Q:-In what form had you seen it? A:-I cannot say.

I74 Q:-Was it written or printed? A:-It was printed. I never saw the original if that is what you want to know.

I75 Q:-Did you ever see it in any other form except in a printed form? A:-No sir.

I76 Q:-Was it ever printed in any other form before it was printed here in the Journal of Discourses? A:-Well I can't say positive,but I suppose it was.

I77 Q:-Do you know whether it was or not? A:-No sir.

I78 Q:-Did you ever see it before you saw it in the "Pearl of Great Price"? A:-I could not say.

I79 Q:-You never saw it until after it was printed? A:-No sir.

I80 Q:-Was it ever presented for the acceptance of the Church at Nauvoo,-that is was it ever presented to the church for acceptance? A:-At Nauvoo?

I81 Q:-Yes sir,-was it ever presented to the church there for its acceptance? A:-No sir,I do not think it was, still I could not say what was done there,for I belonged to the traveling ministry,and was away a good deal of the time.

I82 Q:-Then it was not presented to the church according to your knowledge? A:-No sir,not to my knowledge. It might have been presented to the church and I not know it,for I was away so much of the time,but I hardly think it was done for the reason that I would have heard of it,but I have no recollection of hearing anything of the kind at all.

I83 Q:-I refer to its presentation to the church while there at Nauvoo? A:-Yes sir,I understand. It might have been presented a dozen times,but if it was I have no knowledge of it.

I84 Q:-Well I am asking you only for your knowledge,and you answer that it might have been a dozen times without your knowledge?

Yes sir,that is true too,but it never was presented that I know anything about. It might have been presented time and again when I was absent and I not know anything about it.

185 Q:-After that revelation,-up to the time of that revelation to the church-and its acceptance by the church,what was the law of the church on marriage? A:-The same as you have read there.

186 Q:-In this book ? A:-Yes sir.

The book I refer to is the 1885 edition of the book of Doctrine and Covenants,and the law I refer to is section one hundred and one? A:-Yes sir.

188 Q:-That was the law of the church up to the time of this purported revelation to the church,and its acceptance by the church? A:-Yes sir.

189 Q:-And the man that violated this law in this book until the acceptance of that revelation by the church violated the law of the church if he practiced plural marriage? A:-Yes sir. He was cut off from the church. I think I should have been if I had.

190 Q:-That would be the condition of the man that could marry more than one person,prior to the giving of that revelation in 1843? A:-What would be the condition of a man that could do that?

191 Q:-Yes sir? A:-Why he would be cut off from the church.

192 Q:-Would not it have been adultery under these revelations I have just read? A:-Yes sir,I expect it could be.

193 Q:-You are one of the apostles in the church at the present time are you not,Mr.Snow? A:-Yes sir.

194 Q:-I will ask you to look at that book and state what it is,Mr.Snow? A:-It is the book of Doctrine and Covenants.

195 Q:-This book is an authority in your church at the present time,is it not Mr.Snow? A:-Yes sir.

196 Q:-In section one hundred and thirty two page in Exhibit "A" (defts) I find a revelation here entitled "A revelation on the eternity of the marriage covenant,including plurality of wives,given by Joseph Smith,the seer,in Nauvoo,Hancock County,Illinois, July 12th 1843? A:-Yes sir.

197 Q:-That is the title of the revelation? A:-I think you have quoted it correctly.

198 Q:-You recognize that as one of the laws of the church at the present time? A:-Yes sir.

199 Q:-You are one of the principle officers of the church here now,are you not Mr.Snow? A:-Well I don't know about that,-

200 Q:-Well I will ask you why it was that in this ~~edition~~ edition of Doctrine and Covenants,this article on marriage as you read it in the 1885 edition of the book of Doctrine and Covenants,and in all subsequent editions,was up to the time in all editions of the book of Doctrine and Covenants,and at the time of this edition was taken out,and this revelation,or purported revelation put in its stead? A:-That is,I take it,you want to know why this principle of plural marriage was adopted instead of the principle of single marriage?

201 Q:-Yes sir,-why did you take the one out and put in the other? A:-I can't tell,for I didn't do it.

202 Q:-You can't tell? A:-No sir.

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and improper cross examination.

203 Q:-Was it not because this taught,-or had changed the

order of marriage in the church? A:-Well it is a fact that the order of marriage was changed,but whether that was the purpose of the substitution or not I do not know.

204 Q:-The order of marriage was changed,and the old order was eliminated,-is that not the fact? A:Well it was changed or extended,as I told you before. It was changed from the one to the other.

205 Q:-It was changed from monogamy to polygamy was it not? A:-Yes sir. You might say it was if it suits you. It was extended from monogamy to polygamy.

206 Q:-Well I believe you state,-? A:-Well I want to explain,-I am willing to answer your questions,and I will answer them as well as I can,but I claim the privilege of answering them in my own language and in my own way as best I can,-that is my right,and I claim it. I must have a little leeway,for my memory is not as good at this present time,-it is not as good as it used to be some years ago. I am much older now than you imagine by looking at me,and in a few weeks,if I live,I will be seventy eight,and you will find if you live until seventy eight that you will not have an extraordinary memory.

207 Q:-If you are growing very old Mr.Snow,but then we had an apostle or two stand that was eighty a few days ago,-a few weeks ago I should say? A:-I will not take into account plural marriage in my evidence to anybody one way or the other. Everybody did not understand it at all. It is limited in its scope,and it is not everybody that was prepared to receive this doctrine,by which is not prepared to receive it,and the doctrine is confined to certain parties under certain conditions,so it was very limited in its scope.

208 Q:-Then it was the introduction of another system since the original one? A:-Yes sir. You might call it such,for it was the extension from the principle of one wife to more than one wife.

209 Q:-For those who were here,and under this revelation, did it prevent every man in the church from having more than one wife? A:-Would what? I didn't understand

210 Q:-Would that polygamous revelation here,-would it prevent any man in the church from having more than one wife at a certain time? A:-No sir.

211 Q:-Then it was extended to everybody that chose to avail themselves of its provisions was it not? A:-I said plural marriage,-

212 Q:-Please answer yes or no? A:-What is the question?

213 Q:-Did the operation of this law of plural marriage or this revelation,every man that wanted to do so, could have more than one wife? A:-No sir,for I think there are lots of men that couldn't do it, one wife.

214 Well then you were a bachelor,one wife didn't extend or include you,because you did not want it? A:-No sir,one wife could not want it too,if you did not want her.

215 Q:-That is the way you understand this polygamous revelation? A:-Yes sir,certainly in that way.

216 Q:-That is you state that if a person should be married or sealed by this revelation,according to your understanding,-that is,if they should be married according to the provisions of this ~~revelation~~ polygamous revelation prior to the year 1845,that they would be violating the laws of the church and would be guilty of adultery? A:-Yes sir.

217 Q:-You state now that Joseph Smith,was sealed or married to your sister in April 1843,and this so-called revelation was given in July of 1843?

A:-No sir.
219 Q:-What do you mean by that answer? A:-I mean sir tha I did not make any such a statement.
220 Q:-What time did you say it was? A:-Well the time I said it was was all right.
221 Q:-At the time that he said he was sealed to your sister you were abroad preaching? A:-I never said anything of the kind.
222 Q:-And you said did you not,that you came back in the middle of April 1842 from your European mission,and on your return,or a few days after your return he told you you said he told you of this alleged revelation and at the same time told you that he was sealed to your sister? A:-I never said he was sealed to my sister,-you were mistaken if you understood me to say that.
223 Q:-Well you said that he told you that he had taken your sister? A:-Yes sir.
224 Q:-Yes sir,and that is what you said he told you? A:-Yes sir,and that is what he did tell me.
225 Q:-That he had taken your sister? A:-Yes sir.
226 Q:-And he was sealed to him? A:-Yes sir,that is it exactly. Now you have got it,-she was sealed to him.
227 Q:-Now the question is,to your understanding of this new covenant the woman is sealed to the man,and not the man to the woman? A:-Yes sir,you are right now. And I am very happy that you have got right for once.
228 Q:-Well I am glad too that I am right at last,as you put it,so you see our joy is mutual? A:-Well yes sir that is right enough. I am glad of it,but if you think you can get into any of such things now you are mistaken,for you can't do it. The whole thing has been stopped,and there is no more of it here now,so you can't find out anything about the operation of this principle in this place,for the whole thing has been stopped.
229 Q:-For you have stated that Joseph Smith took your sister for a wife when he had a wife already? A:-Yes sir.
230 Q:-Prior to the giving of this revelation? A:-Yes sir.
231 Q:-Well what kind of a position did it put your sister and Joseph Smith in? A:-It put them in a first rate,splendid position for time and eternity.
232 Q:-Was not that not simply sealing,instead of marriage A:-Well it was all the same.
233 Q:-Sealing for eternity,and marriage,are they all one and the same thing? A:-Well it is getting the female with the male the same as it is in the marriage ceremony.
234 Q:-I will ask you sir. Now,if you ever saw the letter of your sister Mrs. Snow to Daniel of Kansas, stating that she was never the wife of Joseph Smith in the nature of being a plural wife?
Counsel for the defendants objects to the question asked the witness for the reason and on the ground that it is incompetent,irrelevant and immaterial,and not the best evidence and improper cross examination.
235 Q:-You may answer that question? A:-I am not aware of that.
236 Q:-Do you say it was not true? A:-What she stated?
237 Q:-Yes sir? A:-I don't know what she stated.
238 Q:-Well do you say that was not true? A:-I don't know what was stated sir.
239 Q:-Well if she stated that was it true? A:-I don't know what,-
240 Well if she stated that was it true,-answer the question if you please? A:-What?
241 Q:-Was she a wife to him in that manner? A:-I don't

know what she stated.

243 Q:-I am not asking you what she stated? I simply ask you if she stated in a letter to the party I have mentioned that she was not a wife to Joseph Smith in the sense of being a plural wife,did she state that was true or false?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is immaterial,irrelevant and immaterial to any of the issues in this case,and on the further ground that it is not cross examination.

Q:-I will now state that again.

244 Q:-Was she to your knowledge a wife to him? A:-A wife to him? Yes.-

245 Q:-[illegible] Yes sir,a wife to him. A:-Of course sir, one wife to him.

246 Q:-In what way? A:-[illegible] to him for time and eternity.

247 Q:-Did you know that to be the fact? A:-Why I know it because he stated it to me.

248 Q:-He stated it to you? A:-Yes sir.

249 Q:-When was it he stated to you? That she had been sealed to him for time and eternity.

250 Q:-And he stated that to you before the giving of the revelation? A:-Before it was published.

251 Q:-But it was before it was given? A:-Yes sir.

252 Q:-You stated that he told you that in April 1843? A:-Yes sir,but that was not before it was given to him,-it was before it was published or had been sent out among people though.

253 Q:-You mean to say he stated that to us in April 1843? A:-Yes sir,that is just exactly what I stated.

254 Q:-The revelation that I have read to you,-or the substance of that I have read to you from your own book said it was given July 12th 1843,did it not? A:-Given to whom?

255 Q:-Given to Joseph Smith? A:-Read that over again what it says.

256 Q:-I have read it once and that is what it says? A:-Read it again so that I can see what it says?

257 Q:-"A revelation on the eternity of the marriage covenant,including plurality of wives. Given through Joseph at his home in Nauvoo,Hancock County,Illinois,July 12th 1843". That is it? A:-Does that say it was not given to him before that time?

258 Q:-Do you say it was NOT given to him before that time? A:-I say that it explained to me the principles of plural marriage distinctly and clearly,and told me that the Lord had revealed the principle,and had commanded him to enter into that practice,and that he had received a revelation to that effect. He said that he had demurred to doing so as he foresaw the trouble that would ensue,but that an angel of the Lord had appeared before him with a drawn sword commanding him to do so,and he could not go forward. It was in substance that that he told me, but of course I do not pretend to relate the exact language he used.

259 Q:-Well now then if it is a fact that he married your sister in April,or had married her at the time he told you this in April,and the date of the revelation is given as July 12th of the same year,the date of the revelation is wrong? A:-No sir,not entirely.

260 Q:-This is not the time it was given? A:-That was the first time it was given to the public,but not the first time it was given to Joseph Smith.

261 Q:-What publicity was given to it in July 1843? A:-Well I think it was the people in Nauvoo.

A:-I don't know.

2840 D:-Do you do not know that it is in Nauvoo to the [illegible] of Illinois on that day?
A:-Do not know.

2850 D:-Was you not present at the time of the [illegible] of Joseph Smith, on the 1 July
A:-I was.

2860 D:-Was you present at the time of the [illegible] of Joseph Smith, on the 1 July
A:-I was present.

2870 D:-Did you see the [illegible] of Joseph Smith?
A:-I did.

2880 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

2890 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

2900 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

2910 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

2920 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

2930 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

2940 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

2950 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

2960 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

2970 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

2980 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

2990 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

3000 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

3010 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

3020 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

3030 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

3040 D:-Was you present at the time of the [illegible] of Joseph Smith?
A:-I was present.

church until it had been accepted by the church? A:-Yes sir, it would be to those that chose to accept it as binding. The people had the most implicit and perfect confidence in Joseph Smith, and when he gave a revelation, whether it was accepted or not, it didn't cause any difference with them, for they had the most perfect confidence in him, so they would accept it and act upon it whether the church or anyone else had acted upon it or accepted it did not make any difference.

285 Q:-Could it be a part of the church law until it had been accepted by the church? A:-That would depend on the circumstances.

286 Q:-That would depend on circumstances, you say? A:-Yes sir.

287 Q:-Will I could have you to explain what you mean by that last part? A:-I don't just know that I can.

288 Q:-Well mention an instance, or the circumstances where a revelation could cause a part of the church law without acceptance on the part of the church? A:-Well I can't tell you exactly, -I can't give an important instance, but I not again that revelation, or that we had it, it would not, or binding, or we even if it had been accepted by the church; but if we had a revelation I know that it have it, it could be binding, or we even before it was accepted by the church,-that is the way I feel about it.

289 Q:-Will not if it should have a revelation, it would not be presented to the church, will it be binding on the church,-that is my question,-not, I mean, on consider of itself yourself,-but will it be binding upon the church? A:-Well it would be binding upon the church, for the course of a person could not, if it was not presented rightly to the church as a church, but it would be binding upon such as knew of it. For if you will allow me to explain I would like to do so. If that revelation is presented to me, and there is a half a dozen men and women and it is presented to them it would be law to them, and be binding upon them, and by other part of the church that are acquainted,-acquainted with it, but I do not think it would be binding upon any other part of the church other than that which are acquainted of its existence. Do you understand that?

290 Q:-Well I think I do,-clearly too? A:-Well I am glad to hear it.

291 Q:-Well suppose these half dozen of men and women should receive a revelation under the circumstances you have indicated, and it should be contrary to the law of the church as accepted by the church,-what would be the duty of the duty of this half dozen men and women in that case? A:-Well it would be rather unpleasant to them I think.

292 Q:-It would also be in an unpleasant position you say? A:-In my opinion it would.

293 Q:-Then a revelation must be received by the church before it is the law of the church? A:-Not always.

294 Q:-Do you say that is not always the case? A:-Yes sir.

295 Q:-Mention an instance where it would not be? A:-Well this instance we are talking about now, for there were several in Nauvoo that received such revelation and practiced it before it was ever received as all by the church.

296 Q:-Did not that make those violators of the law of the church? A:-No sir.

297 Q:-Why? A:-Because Joseph had a perfect authority to give revelations and the people were under obligations to receive them.

296 Q:-You state that as a fact? A:-I state that as my understandin, of Joseph's privileges and the people's duty.

299 Q:-When Moses went up on the mount to receive the law in the wilderness, was he not commanded to present it to the church for assentance, before it was binding upon the people?

Counsel for the defendant objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and improper cross examination.

300 Q:-Do you not know that this is? A:-Yes sir.

301 Q:-Are the people not to answer? A:-Answer what.-?

302 Q:-Answer whether they would accept that law or not? A:-Well yes,-I don't know as they were forced to do it. I think, rather as they had to do that. Was they?

303 Q:-Well, I ask you that question? A:-Well, I told you I don't know.

304 Q:-You are a preacher in this church here in Utah? A:-Yes sir.

305 Q:-An an apostle? A:-Yes sir.

306 Q:-And you don't know whether it was just or not that the people were forced to do it, before it could be a law? A:-No sir, I do not know.

307 Q:-You are an ordained and an apostle in your church, and you do not know that? A:-No sir,-you are a lawyer, and I think you know half as much as you ought to know.

308 Q:-Well I admit that. I do not make any pretensions of preachin any more than I can know? A:-You know as much as anybody here is the for that, and if you want to go on I am willin, although I don't relish it. It is particularly interesting to the young men.

309 Q:-Well then, it will pleat,-I know I am not here for the purpose of interestin, them? Did not the people have to rise up and stand when they could see the vote, and that was the rule in the olden times? A:-Well it was as good as any rule I guess.

310 Q:-Well is it not a fact that it was a rule of the church that if anybody should undertake to follow a principle that had not, so to speak, once been accepted as a principle and true doctrin of the church that they were violators of the law of the church? A:-Yes sir.

311 Q:-That is a fact? A:-Yes sir, as there are always above to every law, you know.

312 Q:-Who constituted the church at Nauvoo, if you know? A:-Joseph and the people.

313 Q:-Joseph and the people constituted the church while at Nauvoo? A:Yes sir.

314 Well then also,-I mean at the time that they were at Nauvoo? A:-Then also besides Joseph and the people that were there?

315 Q:-Yes, they? A:-Well that was it.

316 Q:-By "the people" you refer to the members of the church throughout the world, as constituting the church? A:-Yes sir.

317 Q:-That the members throughout the world and Joseph Smith constituted the church? A:-Yes sir.

318 Q:-Then could Joseph Smith receive a principle without the pre-league or consent of the body of the church, then and the people throughout the world, and without submitting it to them,-could he receive and practice it, and be in harmony with the law? A:-He couldn't do it in reference to that in any other way. That is the only way he could do it.

319 Q:-Could he practice it without a violation of the law of the church? A:-It was just this way, and it seems to me to be a plain common

-When?

349 Q:-From 1856, the time you came into the church first up to 1844? A:-I have no recollection of ever being [illegible] until here recently.

350 Q:-Then you do not remember anything about being [illegible] admitted to the church? A:-No sir, I have no recollection of being present when [illegible] one. As I told you I was many a good deal [illegible] days engaged in the travelling [illegible] ministry, and I have no recollection of [illegible] that.

351 Q:-[illegible] you do not know when the [illegible] of the church [illegible] Time to Time? A:-Yes sir, I understand it [illegible]. I understand it in a general way as [illegible] of [illegible].

352 Q:-[illegible] you all the publications that pertain [illegible] as contained in this book, pertaining to [illegible] conferences of the church at Kirtland [illegible]? A:-[illegible] I do not tell you I [illegible] not [illegible].

353 Q:-[illegible] you to say you [illegible]? A:-No sir.

354 Q:-[illegible] you [illegible] the [illegible] or no [illegible].

355 Q:-[illegible] the [illegible] of the church? A:-[illegible].

356 Q:-You [illegible] the [illegible]? A:-Yes sir, [illegible] roll.

357 Q:-[illegible] the [illegible]? A:-I [illegible] this plurality business.

358 Q:-[illegible] plurality business [illegible]? A:-[illegible] I [illegible] there.

359 Q:-[illegible] A:-[illegible].

360 Q:-[illegible]? A:-[illegible].

361 Q:-[illegible]? A:-[illegible] I have [illegible] over [illegible] over again, [illegible] from [illegible] you [illegible] information, but [illegible] critical [illegible] if [illegible] willing, to do so [illegible] it,-I [illegible].

362 Q:-[illegible] of the church [illegible]? A:-All of [illegible]?

363 Q:-[illegible] fifty six years since you [illegible] joined [illegible]? A:-Yes sir, [illegible] the [illegible] of the church.

364 Q:-[illegible] you not know that [illegible] 1844? A:-No sir.

365 Q:-[illegible] A:-I don't [illegible] anything about that.

366 Q:-[illegible] anything about [illegible]? A:-No sir, I never heard that this [illegible] up. I have [illegible] claim [illegible] that it [illegible], but if it [illegible] of [illegible] fact, as I never saw anything [illegible] that [illegible] fact. I think I [illegible] it if it did, as I do not [illegible] it, -in fact I know that it did not.

367 Q:-Don't you know that a portion of it about that time [illegible] under Lyman Wight? A:-I have heard of it, but I do not [illegible] it.

368 Q:-Don't you know that another portion of it went to Pennsylvania under Sidney Rigdon? A:-I have heard so

369 Q:-Don't you know that another portion of it went [illegible] Texas, in Lorin Farnham?

Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons that it is incompetent, irrelevant and immaterial, and is not proper cross examination.

370 Q:-Don't you know that? A:-Well I understand that to be so. I know it from hearsay, but I do not know any of these things of my own knowledge.

371 And don't you also know that there was a large portion of the people that belonged to the church at the time of the death of Joseph Smith, that did not, with many of these factions in the United States? A:-I know there is the Josephites,-

By Mr. Dickson,-"Mr. Chairman, at this time,-that the Josephites did not have any existence at that time."

By Mr. Tilley,-

372 Q:-Let me, Mr. Chairman, propose to him,-that it will not, for the purposes, Mr. Tilley, to proceed to show that he knew anything about you? A:-Well that is right,-they were not in existence at that time,-there was no Utah.

373 Q:-Don't you know that a large portion of the did not come to Utah with you? A:-[illegible]

374 Q:-It is very difficult for you to answer anything in a single sentence? A:-[illegible]

375 Q:-Who became the President of the church after the death of Joseph Smith? A:-Brigham Young.

376 Q:-How did he become the President? A:-[illegible] the choice and sustained by the people. Counsel for the defendants objects to the question asked the witness on the ground that it is irrelevant and immaterial, and not proper cross examination. It is not material in the law at all, and not proper cross examination.

A:-I will that, if you say.

377 Q:-Is that the way provided in the book of doctrine and covenants? A:-Do you know?

378 Q:-The law is contained in the book of doctrine and covenants? A:-Well you know,-

379 Q:-I will ask you if it is not written there? A:-Which point do you refer to?

380 Q:-I am [illegible] again,-[illegible] you appointed President of the church according to the law contained in the book of doctrine and covenants? A:-If you will point out what you refer to, I will answer it to you immediately,-I will answer you immediately if you will point it out to me.

381 Q:-Was Brigham Young appointed President of the church according to the law contained in the book of doctrine and covenants at the time of the death of Joseph Smith?

Counsel for the defendants objects to the question asked the witness on the ground that it is irrelevant and immaterial, and not proper cross examination.

A:-I don't know what you refer to.

382 Q:-Do you decline to answer the question Mr. Smoot?

A:-What is that?

383 Q:-I asked you if you declined to answer the question?

384 By Mr. Critelli,-"I except to that question, for he has not stated to the witness what the law is he referred to, and the question as framed is incompetent, for it asks for a conclusion of the witness." "It is speaking with reference to a particular law in the book of Doctrine and Covenants with reference to the appointment of Brigham Young to the presidency of

76 y - So that the way he was made the President of the church?

the church, and he ought to point out that law, and ask the witness if he was appointed in accordance with that law."

By Mr. Kelley,-

384 Q:-Just state who Brigham Young became President, Mr. Snow?

Counsel for the defendants objects to the question asked the witness for the reasons above given, and also on the ground that it is improper cross examination.

A:-Well I will admit that he became,-he came into the position by the voice of the people.

385 Q:-He was not appointed by Joseph Smith as president?

A:-No sir, he was not.

386 Q:-Joseph Smith did not confirm him as his successor? A:-No sir, I do not understand it so, at all.

387 Q:-Did he never so signify to him? A:-No?

388 Q:-Did he Young? A:-No sir.

389 Q:-Do I will place you the section given in the revelation of 1841 in behalf of that year,-"Verily, verily, I say unto you that none other shall join-the unto this gift except it be through mine, for if it be through me, he shall not have power, except to appoint another in his stead; and this shall be unto you a law that you receive not the revelations of commandments; and this I give unto you that you may not be deceived; that you may know they are not of me. For verily I say unto you, there is none ordained of me shall come in at the gate and be ordained as I have told you before, to receive revelations until you are received, for he shall receive them as I have appointed." Was not in 1841 Young appointed there in his to receive revelations? A:-Where is Joseph?

390 Q:-Yes sir.

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that it is incompetent, irrelevant and immaterial, does not call for the best evidence, and is improper cross examination.

A:-I will if, sir,-it has been understood that,-in his history will consume, and the people of the church have it,-that the ancient records,-that in the scriptures there is language, that the entire authority devolved upon the president of the church of twelve, and upon the twelve apostles,-

391 Q:-Upon the twelve apostles? A:-Yes sir.

392 Q:-That the entire authority of the church devolved upon the twelve apostles? A:-Yes sir.

393 Q:-Well I now to exclude the answer of the witness, -I will not either.-

By Mr. Shell,-"Well then we will move to exclude it from the record as immaterial, incompetent, an hearsay, and not responsive to the question."

By Mr. Kelley,-

394 Q:-Tell then, in the position of the church at that time, that the entire authority of the church rested upon the twelve? A:-Yes sir.

395 Q:-Was Mr. Young the president of the church afterwards? A:-Yes sir.

396 Q:-After when? A:-After that time.

397 Q:-After the martyrdom? A:-Yes sir.

398 Q:-After this time that you speak of when it was understood that the authority rested upon or with the twelve? A:-Yes sir.

contradiction at all. It is only to mortal fallible judgment that there appears to be a contradiction. Or you have asked for my opinion, and you have it.

411 Q:-Can you mention anything in the Bible or book of Mormon and covenants, or the book of Mormon, or in either or any of these books that is in any,-that is in contradiction to any of the laws he has given to the church?

Comm. I for the defendants object to the question asked the witness on the ground that it is immaterial, irrelevant and immaterial, and improper cross examination.

A:-Well in the days of Noah it says that the Lord repented himself of certain things, and it says that it repented him. Then he went on and it was a condemnation to destroy Israel entirely, and God through his exertion and force and power with God, succeeded to have mercy and the only perfect man,-he prayed and pleaded with him and told him that he could destroy, and he said to him in effect,-"you indeed have delivered Israel, and could not carry out the job,-you failed, and so," said he "don't do this again".

412 Q:-Do you believe that by this? A:-Well I [illegible] you [illegible] scripture in the Bible.

413 Q:-Well I would like to know if there is any such thing in the Bible?

414 Q:-Well [illegible] such a thing in the Bible,-?

A:-Well [illegible] prayer and persuasion [illegible] contradiction of Israel.

415 Q:-Well [illegible] believe that Joseph Smith [illegible] prophet. You [illegible] you [illegible] the Bible as you go [illegible] the Bible,- [illegible] instance, and I [illegible] it from the Bible itself, and [illegible] you try to [illegible] points [illegible] for [illegible]?

416 Q:-Will it, [illegible] that I am trying to [illegible] the questions I ask you and [illegible] will [illegible] much better, for it may [illegible] that I know [illegible] about the Bible than you [illegible] the following [illegible] you would believe that Joseph Smith [illegible] prophet, and [illegible] the work he claimed to do? A:-Yes sir.

417 Q:-Don't you know that when he translated that passage you quoted from Genesis, that he did it? A:-Yes sir, [illegible] it comes down to the fact I don't know [illegible] all the work he claimed to do.

418 Q:-Don't you know that when he translated that passage that you attempted to quote from Genesis, that he found it was not correct that God repented there? A:-No sir.

419 Q:-You do not know that? A:-No sir, I do not. I don't know anything about that.

420 Q:-You do not know that? A:-No sir, and I never read it either. I don't know that he ever translated any such thing.

421 Q:-So you bring that up as an instance where the Lord repented of a pre-conceived determination, do you? A:-Yes sir.

422 Q:-And you give it from the King James translation of the Bible?

Comm. I for the defendants objects to the question asked the witness on the ground that it is immaterial, irrelevant and immaterial, and improper cross examination.

reality there is no contradiction

423 Q:-You are willing to quote from the King James translation are you? A:-What is that?

424 Q:-You quote from the King James translation,did you not? A:-No sir,I did not quote anything at all,and I did not attempt to quote anything at all. I simply gave my understanding of it in my own language. I did not attempt to give the language of the quotation.

425 Q:-So then you do not know what translation you have quoted from? A:-Well I suppose sir,I quoted this out of my own Bible translation.

426 Q:-You do not use that translation of the Bible here in this territory,do you? A:-What translation?

427 Q:-Your own translation? A:-I don't know.

428 Q:-You are a Christian? A:-Yes sir.

429 Q:-Are you a member of any church? A:-No sir.

430 Q:-Are you a member of any church organization in this territory? A:-No sir.

431 Q:-Do you not know that there are many churches in this territory,-are you certainly going to say that your church is the only one? A:-No sir,I don't go to church. There is many churches,-I believe in your own way,-I believe in God,-I believe in Christ,-I believe in the old man in the sky.

432 Q:-Do you not, when you first joined the church, have a conception of it,-a conception, character of a church that will live in eternal life? A:-Yes, it was called the one true church,-that one church.

433 Q:-Then it was confined to that point? A:-No sir, it was to all days.

434 Q:-Do you not know that there differs in how many churches? A:-Well it seems to differ in various ways as to how they live and what they do,-I say to judge by appearance here,but not by any rule or color and,-we are taught to be united or something like that in the church,-we are taught to be united too.

435 Q:-Are you not intending the fact that the church as you have defined it, permitted you to have the right of divorce,-that you could have the right of divorce,-you could also permit the church? A:-Yes sir.

436 Q:-Is this written in the Bible? A:-Yes sir, it is in our own Bible,-it has always been so.

437 Q:-Is this the law of God or man according to the doctrine of Christ? A:-Yes sir, I believe.

438 Q:-Do you know of any other reference to marriage? A:-No sir,-well yes,I suppose it has,-it has written it.

439 Q:-Does it expand it from one wife to a plurality of wives? A:-No sir.

440 Q:-Is this not? A:-No sir.

441 Q:-Are you not just a moment ago started that when you first joined the church in 1888,it contained a [illegible] wife,and do you believe-or your church teach that wife has permitted people to belong to it that have more than one wife? A:-Yes sir.

442 Q:-Well is not that a change? A:-No sir.

443 Q:-What is it? A:-Well I call it an expansion.

Re-direct examination by Mr.Bell,-

444 Q:-In your conversation Mr.Smoot,you stated that the majority of the people were not a large number of your members,- that is a large number of the

members of your church, who belonged to the church at the time it left Nauvoo, and did not remain in fellowship with the church here?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial and irrelevant, and not proper re-direct examination, no mention having been made in the witness' cross examination.

445 Q:-You may answer the question? What is the question?

446 Q:-I mean to ask you if you did not, at some examination, when the question was asked you, that there was a large number of the members of the church in the city of Nauvoo, who did not leave Nauvoo, or rather did not come to the Valley of Utah with the church when it came west, and did not remain in fellowship with the church here?

A:-No sir, not a very large number, but there were some.

447 Q:-No? I will ask you to state, for, since if the fact, or the number or not a large number of members both in the United States, in Europe and other parts of the world embraced in Mormonism, and were a part of the ~~XXXX~~ of the church that left Nauvoo and came to the mountains? A:-Yes sir.

Counsel for the plaintiff objects to the question and to the form of the question, on the ground that it is immaterial, irrelevant and incompetent, not proper re-direct examination, and beyond the scope of the cross examination given.

448 Q:-Do you think or know, from your own observation, if it is the duty of a polygamist to be punished for his polygamy or not? Does it seem to you to be just? I will ask you to state whether you know that such has been the case, or not, in the past time?

Counsel for the plaintiff objects to the question asked, on the ground that it is immaterial, irrelevant and incompetent, not proper re-direct examination, and is leading.

A:-It seems to be. As I understand it, I have had no opportunity. I will explain that pretty clearly now if I could have.

449 Q:- Yes, I will ask you to state, to the jury, whether or not a polygamist is hindered from joining the church, just because he is the husband of more than one wife? A:-Yes sir.

450 Q:-Do you know of any instance? A:-Yes sir, that is what I have stated before.

451 Q:-It is a hindrance to the church just as much as the marriage relation with it? A:-Yes sir.

452 Q:-I will ask you to state, if you know of any source of the church that has been given you and that relation on church marriage is an addition to the church from the law of marriage as contained in the first edition of the Book of Doctrine and Covenants?

Counsel for the plaintiff objects to the question on the ground that it is leading, hearsay, and incompetent, irrelevant and immaterial.

[illegible] Young and Heber C. Kimball. Oh I can't tell you all of them.

490 Q:-I asked you prior to the death of Joseph Smith? A:-Yes sir.

491 Q:-Well [illegible] Brigham Young, the president then? A:-[illegible] the question you asked me?

492 Q:-[illegible] question? A:-Well [illegible] president then. I was telling you the [illegible] President Brigham Young was one of the [illegible] prior to the death of Joseph Smith [illegible] officers that I have named.

493 Q:-[illegible] question, I asked you who [illegible] presidency of the church? A:-Before he was [illegible]

494 Q:-[illegible] A:-[illegible]

495 Q:-[illegible] A:-[illegible]

496 Q:-[illegible] A:-[illegible] Smith [illegible] death. Well my memory fails me [illegible] I [illegible] you.

497 Q:-[illegible] the [illegible] to [illegible] and [illegible] now [illegible]?

498 Q:-[illegible] A:-[illegible] that [illegible] and [illegible] would [illegible]

499 Q:-[illegible]

500 Q:-[illegible] A:-[illegible] Ri[illegible] [illegible] after [illegible]

501 Q:-[illegible] A:-[illegible] sir, [illegible] just a [illegible]

502 Q:-[illegible] A:-[illegible] time.

503 Q:-[illegible] A:-[illegible]

504 Q:-[illegible] A:-Yes [illegible]

505 Q:-[illegible] A:-[illegible]

506 Q:-[illegible] authority in [illegible]? A:-Yes sir.

507 Q:-[illegible] Joseph Smith's [illegible] the [illegible] authority in the church? A:-Brigham Young.

508 Q:-[illegible] authority? A:-Well sir, I am [illegible] able to tell you [illegible] I am glad to [illegible] Brother Joseph [illegible] or a bishop of any one who has or had [illegible] responsibility [illegible] out of the duties of [illegible] office, has the right to select two counselors, and they are [illegible] to select their [illegible], and [illegible] counselors, [illegible] authority [illegible] than to [illegible] counselors to that person, whoever he may be, or whatever his office may be,-that is all the authority they have,-and that person [illegible], whether he is the president of the church or simply a bishop or whatever he may be,-those counselors are sim-

[illegible]

[illegible]

[illegible]

[illegible]

543 [illegible] A:—Yes, sir.

544 [illegible] A:—Yes, sir.

545 [illegible]

546 [illegible]

547 [illegible]

548 [illegible]

549 [illegible]

550 [illegible]

551 [illegible]

552 [illegible]

553 [illegible]

554 [illegible]

555 [illegible]

556 [illegible]

557 [illegible]

558 [illegible]

559 [illegible]

560 [illegible]

561 [illegible] A:—No, sir; not altogether, but I know that is a fact. [illegible]

562 Q—That is the way you know it? A—That is the way.

[illegible] just as good as knowledge. Now I do not know [illegible] things of my own knowledge, for I was not present at the time, but I have heard that it was as I have stated, and I consider my information fully as good as positive, personal knowledge, at least it is satisfactory to my mind as a personal knowledge. [illegible] Counsel, I want a decision from the Court, that is the spirit of the law manifested in that [illegible] do this [illegible], and they [illegible] should do it.

565 :- [illegible] only [illegible] in the [illegible] A:- No sir, not wholly in that way. I [illegible] it [illegible] statement that is true, but I also know [illegible] in the [illegible] way that I [illegible] and that I know that [illegible] that the son of God was or was not [illegible] people,-it is the [illegible] way [illegible] authority outside of [illegible] but it is [illegible].

566 :- [illegible] Court, as Justice [illegible] way is [illegible]"

567 :- [illegible] of [illegible] Justice, -[illegible] only [illegible] the [illegible] of [illegible] the [illegible] in- [illegible] the [illegible] the [illegible] to- [illegible]

568 :- [illegible] A:- O sir [illegible] contrary [illegible] sup- [illegible] ions. [illegible] Court [illegible] A:- [illegible]?

569 :- [illegible] another [illegible] to [illegible] not [illegible] ici- [illegible] ? [illegible] asked [illegible] vos [illegible] that [illegible] vidence.

570 :-Could it be competent evidence or not? A:- I have [illegible] by reason of determining whether that could be [illegible] or not.

571 :-Answer the question. Would that be competent evi- dence?

Counsel for the defendants objects to the question being asked the witness on the ground and for the reasons that it is incompetent and irrelevant and immaterial, and it calls for an opinion of the witness.

A:-I am not here to judge what is competent, or what is incompetent.

By Mr.Cabell,-"I will appeal to the reporter to say upon the question as to whether or not this is evidence, and whether or not it is proper

are competent to ask the witness these kind of questions, and I object to this kind of an examination and to each and every question asked the witness heretofore and hereafter, on the ground that it is not competent, relevant or material to any of the issues involved in this case, and is improper cross examination; and there is no issue in this case [illegible] would render such an examination competent.

By [illegible],-"If I properly understand my duty here [illegible] this evidence, it is not my place to pass [illegible] competency, relevancy or materiality of any [illegible] that may be offered, nor to pass upon the question [illegible] or not, any question is pertinent [illegible] involved. That, I take it is [illegible]; [illegible] outside of my duty or authority in taking [illegible] testimony. Of course I have my opinion [illegible], but this is not the time or place to [illegible], therefore I decline to do so. Of course [illegible] was asked that was flagrantly outside [illegible] issues, I might refuse to compel the witness [illegible] it,-but in this case I shall [illegible] by compelling or refusing [illegible], the [illegible]. I may be [illegible] in my position, but that is the way I look upon it.

By [illegible],-

573 Q:- [illegible] position. [illegible] ? A:- [illegible] right.

574 Q:- [illegible] ? A:- [illegible].

575 Q:- [illegible] ? A:- It would [illegible] the First Presidency. And further [illegible], there [illegible] not [illegible] left, [illegible] would [illegible].

576 Q:- [illegible] answer? A:- [illegible].

577 Q:- [illegible] question,- [illegible] ? A:- [illegible].

578 Q:- [illegible],- [illegible] ? A:- [illegible].

579 Q:- [illegible] the [illegible] of the First Presidency? A:- [illegible].

580 Q:- [illegible] could [illegible] ? A:- [illegible] sir, [illegible] left,-they [illegible] could not [illegible] business in [illegible] Presidency [illegible] in full.

581 Q:- [illegible] in connection with the First Presidency [illegible] ? A:- [illegible] the First Presidency [illegible] affairs [illegible].

582 Q:- [illegible] the First Presidency could? A:- [illegible].

583 Q:- [illegible] the First Presidency [illegible] ? A:- [illegible].

584 Q:- [illegible] without the co-operation of the First Presidency? A:- [illegible].

585 Q:- [illegible] I believe,-?

Re-[illegible] examination by Mr. [illegible],-

586 Q:- [illegible], I would like to get you to [illegible] the [illegible] or not the Quorum of Twelve,-whether or not the Quorum of Twelve was filled [illegible] appointed? A:- That is what I stated.

587 Q:- So that at the time of his appointment there was

nine in the quorum? A :-Yes sir. -Well now just wait a moment. Now I say that without ~~without~~ further thought, I could not say whether they were appointed before or after the First Presidency was appointed or organized. As it is I do not know, and I could not [illegible] under the circumstances anyway.

588 Q:-Now in your re-cross examination, you have stated [illegible] Hyrum Smith was not ordained a seer [illegible] when he was counselor to Joseph Smith [illegible]. I will ask you to state whether or not he was [illegible] ordained a prophet, seer and revelator in connection with the office of patriarch? A:-He might have [illegible].

589 Q:-[illegible] you state it as a fact that he was ordained a [illegible] of prophet, seer and revelator, while [illegible] counselor to Joseph? A:-I could not say as to that, I could not say as to that.

Re-[illegible] examination by Mr. Kelley.-

590 Q:-[illegible], do you [illegible] explain [illegible]? A:-[illegible] anything.

591 Q:-[illegible] you [illegible]? A:-No sir. [illegible] [illegible] [illegible] to come,- [illegible] [illegible] [illegible] or the [illegible] [illegible] outside of the door [illegible] [illegible] [illegible] Objected to.

Witness [illegible] [illegible] $7.50 paid [illegible] [illegible].

It being impossible to complete the taking of the depositions herein on this day, the further taking of the same was continued until the hour of 9-30A.M. on Thursday the 17th day of March 1888, to be continued in that place in that behalf first afore said.

Now on the 17th day of March 1888, the same being Thursday, at the hour of 9,30 A.M. come the parties hereto as afore said, and the further taking of the depositions herein was continued, pursuant to adjournment.

Lyman O. Littlefield being produced, sworn and examined, and being of lawful age, on the part of the defendant testified as follows,-

Direct examination by Mr Hall,-

1 Q-State your name to the reporter? A-My name is Lyman O. Littlefield.

2 Q-Mr Littlefield you live at or there you reside? A-I reside at Smithfield, Cache county, Utah.

3 Q-Where did you reside before moving there? A-I have lived at Logan since moving there seventeen or eighteen years ago. I resided there previous to moving to Logan seventeen or eighteen years ago.

4 Q-When did you come to this territory Mr Littlefield? A-I came to Utah in '55, and I resided here in Salt Lake City until I moved to Logan something like fifteen years ago last spring,-I think that was the time I moved there.

5 Q. Where did you reside before moving there? A-Before I moved to Smithfield?

6 Q-Yes sir? A-I resided there in Logan.-

7 Q-I mean before you moved to Utah? A-I came from Nauvoo to Utah.

8 Q-You came from Nauvoo to Utah? A-Yes sir.

9 Q-What state is Nauvoo in? A-Iowa.-I mean Illinois. I meant to say Nauvoo was in Illinois, and I came from there here in '55. I get these states mixed up sometimes.

I0 Q-About what time did you live at Nauvoo,Illinois?
A-I lived there,-I went ~~there~~ to Nauvoo I think first in about '40 or'4I. It was in '4I I think,-either '40 or '4I,-and I resided there,-so you want to know how long I resided there at Nauvoo.

II Q-Yes sir? A-Well I resided there until the church moved from there in '46.

I2 Q-You resided there from I84I ~~xxxxx~~ or '40 down to '46? A-Yes sir. It was at the time that the church left there,that I left,and I think that was in '46,-I think it was that year that the church moved from there.

I3 Q-State what church,if any,you were a member of while you were living at Nauvoo,Illinois?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial.
A-I was a member of the church of Jesus Christ of Latter Day Saints.

I4 Q-State what office,if any,you held in the church of Jesus Christ of Latter Day Saints,while you were at Nauvoo,Illinois?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is ~~incompetent,irrelevant~~ incompetent,irrelevant and immaterial.
A-It was in the Seventies quorum.

I5 Q-What is that? A-I was one of the Presidents of ~~xx~~ Seventy at that time,and I am still I may say.

I6 Q-State to the reporter Mr Littlefield,what you know in regard to the doctrine of plurality of wives,or as it is commonly called,polygamy,being taught in the church of Jesus Christ of Latter Day Saints in Nauvoo before the death of Joseph Smith?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and calls for a hear say statement of the witness,and not what he knows of his own knowledge".

A-Well I can tell what I know about it,-what I know about that doctrine being taught. Do you want to know?

By Mr Kelley,-

I7 Q-Just answer the question? A-Well I was cognizant of the fact that that doctrine was ~~being~~ taught there ,and it was understood by a great many people that it was taught,-and not only taught but practiced. I know it and it was ~~xxxxxxxxx~~ known by a great many people I understood that matter perfectly but it was not taught to the whole church generally,but it was taught privately so that a great many people understood it
and knew it was practiced,too up to that date.

By Mr Hall,-Up to what date? A-Up to the time previous to the death of Joseph Smith,senior. Now what I mean by that is that it was not taught publicly from the stand,but it was so taught that the people,or a great many of them understood that doctrine,and some of them practiced it,-at least if it was taught from the stand I didn't know it,for I never heard it taught from the stand but I know it was taught and practiced secretly,and was not given to the whole church as a principle according to the best of my knowledge in the days of Joseph.

I9 Q-I would like to ask you Mr Littlefield if you were taught that principle?
Counsel for the plaintiff objects to the question asked the witness on the ground ~~xxxxxxxxx~~ and for the reason that it is incompetent,irrelevant and immaterial.

A-Yes sir, I was taught that doctrine or principle, and conversed upon it with different parties, but I never was taught that doctrine from Joseph Smith himself, personally, but the doctrine was talked of between myself, and a great many other parties, and always with the understanding that it had its origin, with Joseph Smith the prophet, himself.

Counsel for the plaintiff objects to the answer of the witness, and moves the court to strike the same from the record on the ground that it is incompetent, irrelevant and immaterial, and hearsay.

A-I can give that more definitely. If you wish I can do so, - give it more definitely if you want. They stated these things more definitely, and if you wish me to do so I can give you their statements more definitely.

Counsel for the plaintiff objects to the last answer of the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, hearsay, and not responsive to any question asked the witness.

20 Q-I will ask you-this question Mr Littlefield, -by what authority were you taught that principle?

Counsel for the plaintiff objects to the question on the ground that it is incompetent, irrelevant and immaterial and hearsay.

A-Do you mean what authority in the church?

21 Q-Yes sir? A-What people holding office?

22 Q-People holding office or any other authority, - church authority?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial, and hearsay.

A-Well of the people I conversed with on this matter some were ladies and some were gentlemen. I conversed with both ladies and gentlemen on this matter. Some of the gentlemen were elders of the church, but the ladies of course did not hold an offices of that kind.

23 Q-Can you state the names of any of the officers of the church that you conversed with on the subject or question of that principle, -that is the principle of plural matriage?

Counsel for the plaintiff objects to the question asked the witness on the grounds that it is irrelevant ~~and~~ incompetent and immaterial, and hearsay.

A-Do you mean elders?

24 Q-Well elders, or officers of any kind? A-Well the elders were officers of the church. Yes I can state one man's name, -one man there is whose name I can positively state that I conversed with but he is not living now.

By Mr Kelley, -"Well I object to any statement made by him, or in regard to him."

A-Well he is not livin,?

By Mr Hall, -

25 Q-Well give his name? A-It occurs to me now that there was one other man that I was very familiar with that was an elder in the church and that was Lysander Gee, and he is livin now. He lives now in Toole City in Toole county in Utah territory.

26 Q-Well, what did he say about it?

Counsel for the plaintiff objects to the question as immeterial, irrelevant and incompetent, and hearsay.

A-He understood that matter and told me about it.

Counsel for the plaintiff objects to the answer of the witness,and moves the court to strike the same from the record on the ground that it is hearsay,incompetent,and not responsive to the question.

27 Q-I will ask you to- state to the reporter Mr Littlefield,what authority there was to,if any, for the introduction of the principle of plural marriage in to the church?

Counsel for the plaintiff objects to the question asked the witness on the ground,and for the reason that it is incompetent,irrelevant and immaterial,and the books of the church are the best evidence of what the authority was.

A-Well the idea of that doctrine was founded upon a revelation that was given to the prophet Joseph with about that period. That was the origin of it.

28 Q-I will ask you to state to the reporter whether or not you were taught before the death of Joseph Smith ,that there was a revelation given on that principle?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that itis incompetent,irrelevant and immaterial,and not the best evidence.

A-Yes sir.

29 Q-You were taught that principle before the death of Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and leading.

A-Yes sir. It was understood and was taught privately in the church before Joseph's death.

Counsel for the plaintiff moves the court to exclude from the record the answer of the witness on the ground that it is incompetent,irrelevant and immaterial,and hearsay.

30 Q-Will you state to the reporter what difference there is,if any,in the doctrine of plural wives,or what is commonly called poly-gamy,as taught to you in Nauvoo,Illinois,before the death of Joseph Smith the prophet,and that doctrine as taught in the revelation published in the book of Doctrine and Covenants of the Church of Jesus Christ of Latter Day Saints in Utah?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not the best evidence ,and witness has not shown his competency to answer the question.

A-They are identical,-they are the same. The doctrine contained in that revelation,and the doctrine of plurality of wives as taught and practised in Nauvoo is identically the same.

Cross examination by E. P. Kelley,-

31 Q-Where did you live prior to going to Nauvoo? A-I lived in Missouri, and from there I went to X Illinois

32 Q-What place in Missouri,did you live at? A-I lived in Far West.

33 Q-Then you went where? A-I went to Illinois. I went to Quincy first and then I went to Bushville,and published a paper there,and from there I went to Nauvoo.

34 Q-Where did you live before you went to Far West Missouri? A-I lived in Clay County,at Liberty.

35 Q-Where did you live before that? A-Well I went,-in the state of Michigan,-I went from the state of Michigan to that place.

36- Q-You went from Michigan to Clay County,Missouri? Yes sir?

37 Q-Were you over-in Jackson county,Missouri? A-No sir

38 Q-You never resided in Jackson county then? A-No sir
39 Q-When did you become a member of the church?A-In 1844
40 Q-In 1844? A-Yes sir.
41 Q-At what date please? A-That time,-I became a member of the church,-
42 Q-Well at what place did you become a member of the church A-I am going to tell you if you will give me a chance,-
43 Q-Well if you will answer my questions promptly without begin, all around the bush it will greatly expedite matters? A-Well give me a little time and I will tell you.,-
44 Q-Well so so? A-In Clay County.
45 Q-In Missouri? A-Yes sir.
46 Q-You became a member of the church in Clay County, Missouri? A-Yes sir. That was where I was baptized.
47 Q-And that was in 1844? A-Yes sir.
48 Q-And you went from there to some point in Illinois? A-Yes sir,I told you where I went.
49 Q-And then you went to another town and published a paper,I believe you stated? A-Yes sir.
50 Q-And then you went to Nauvoo. A-Yes sir,then I went to Nauvoo.
51 Q-Now what was the doctrine of the church up to 1844 with reference to the question of marriage? A-Up to 1844?
52 Q-Yes sir,up to the year 1844 what was the doctrine of the church of Jesus Christ of Latter day Saints with reference to the question of marriage? A-Well I don't know as I could tell you what it was.
53 Q-Didn't they have any doctrine? A-On that subject?
54 Q-Yes sir? A-I suppose they did.
55 Q-Well do you know whether they did or not? A-Well they married the same as other people did. They married wives and lived with them.
56 Q-Married wives,and lived with them the same as other people did? A-Yes sir.
57 Q-Did they have any principle or revelation,or anything in the book of doctrine and Covenants on that question? A-Up to 1844?
58 Q-Yes sir? A-Not that I am aware of?
59 Q-You were a President of a Seventy? A-No sir.
60 Q-You were not? A-Not at that time.
61 Q-All before 1844? A-Before 1844 was I?
62 Q-Yes sir? A-Yes sir.
63 Q-You were? A-Yes sir. *I was in 1844 I was*
64 Q-And you had a copy of the book of doctrine and Covenants? A-Yes sir.
65 Q-And have read it? A,Yes sir,
66 Q-Had read everything in it? A-Yes sir. Well now I don't think I have sir,when I come to think of it.
67 Q-Do you say there was not a revelation in there on the question of marriage? A-In what?
68 Q-In the book of doctrine and Covenants you had? A-No sir. I don't say that. I say there was a ceremony of marriage there,but I don't think it was in the form of a revelation.
69 Q-Well was there not a revelation in there outside of the ceremony on marriage,commanding one man to have but one wife,and one woman to have but one husband? A-There was a ceremony given there for celebrating marriage,it was not the revelation on plural marriage

70 Q-Was there not a revelation on monogamous marriage
[illegible] there,-a revelation commanding that a man should have
but one wife only? A-Well I don't know what you
call a revelation-. You may call it a revelation but
I don't,-I call it a ceremony regulating the performa-
nce of the marriage ceremony,-giving directions as
to how it will be performed. You might call it a
71 revelation but I don't. [illegible] that it was a
Q-Well was there not a revelation outside of the cere-
mony on marriage? A-I don't think there was a ceremony on
72 marriage,-you might call it a revelation,-but I don't
think of it as a revelation in the mode of operation
and government. Prior to that on the question of
marriage? -I don't think there was a ceremony,-there was
no revelation [illegible] or not. That is the only
thing that I know of [illegible] could call a revelation
on marriage, but I don't call it a revelation.
73 Q-Was there a ceremony,-
By Mr Hall,-"[illegible] I wish to say in in connection to
all this testimony, on the ground that it is incompe-
tent, irrelevant and immaterial, and calling for the
[illegible] which the witness
[illegible] in his examination in chief, and
[illegible] examination."
By [illegible] Hall,-
74 Q-I will read the exhibit", [illegible] the
[illegible] paragraph seven, section thirteen,-
Counsel for the defendants objects to the question about
to be [illegible] on the ground that [illegible] intiff
is seeking to prove by [illegible] party that which is a
part of the [illegible] of the church, and consequently in
calling [illegible]
75 A-I [illegible] the [illegible] collective
[illegible] since it seems [illegible] it would be [illegible]-
[illegible]?

By [illegible] Hall,-"Well we object to it on the ground
ground that it is not a memorandum made by the witness, and
therefore [illegible] for refreshing [illegible] memory".
76 Q-"Are [illegible] I say unto you that shall not kill;
[illegible] shall [illegible] Thou shalt not steal;
and he that steal[illegible] I say will not [illegible], shall be cast
out, [illegible] not lie; [illegible] lie, I say will not repent,
shall [illegible] out. Thou shall love thy wife with all thy
heart, [illegible] shall cleave unto her, and none else; and that
looketh upon a woman to lust after her, shall deny the
faith, and shall not have the Spirit, and if he repents not, he
shall be cast out. Thou shalt not take it upon you, he
he that [illegible] shall be cast
out; but [illegible] all his [illegible] and forgetteth it, and doth it no more, thou
shalt be forgiven; but if he doeth it again he shall not be
forgiven, but shall be cast out. Thou shalt not speak
evil of your neighbor, nor do him any harm.
Thou shalt do my law concerning, those things are given in
my scriptures; he that [illegible] the commandments, shall be
cast out." Do you recognize that which I have just read
as [illegible] of the book of Doctrine and Covenants
of the Latter Day Saints? -That [illegible] for itself.
77 Q- [illegible] you recognize that which I have read as
being a part of the law of the church at that time?
A-I [illegible] put it so [illegible], in that it was the law
of God [illegible], that is correct.
78 Q-Look at the book [illegible] of it is,-is it not, in
book of Doctrine and Covenants of the Latter Day Saints, edition?
A-[illegible] I [illegible] it for I have looked at it [illegible]
many [illegible] under [illegible] of [illegible].
79 Q-Now look at it, and see if that is not the law
governing the organization of the church from the
time of the organization up to 1844? A-From then?

80 Q-I asked you to look at that book and state if that is not the book that contained the laws governing the [illegible] organization of the church up to 1844,-from 1830 up to 1844 the time that Joseph died. A-It has the appearance of being the regular book of covenants so far as I can see. It has every appearance of being the regular book of covenants,-I have no doubt in the world but that it is the book.

81 Q-And is that the law of the church up to 1844, was it not? The law of the church up to 1844 was the law contained in that book, wasn't it? A-Well sir I could not state that. I use to not be particular enough to look out the dates to answer that. It might have been a little or slightly so at times.

82 Q-It might have been a little provisions? A-Yes sir.

83 Q-[illegible] A-[illegible] the law of the church [illegible] provision to that time.

84 Q-So we know how many editions of the book of Doctrine and Covenants there has been published? A-I don't know the number sir, but there has been a good many.

85 Q-[illegible] A-[illegible] there has been many. There has been several editions of it, published.

86 Q-"[illegible]"? A-Yes sir,-so I understand. When one wing is gone out of print, they could re-print it, [illegible] that I have seen [illegible] re-prints of the published from time to time.

87 Q-[illegible] A-[illegible] I can't tell you anything about the re-prints.

88 Q-[illegible] edition of the book of doctrine and covenants that was published prior to 1835, containing the revelation on the question of marriage. Is it contained in this edition of 1835? A-I do not know.

89 Q-Do you know they are [illegible]? A-No sir.

90 Q-Don't you know that it was not any such a book? A-No sir I do not know anything about it.

91 Q-Didn't you know that the authorized revelation on the question of polygamy was not published until after 1835? A-Yes sir I can't know for the reason that I haven't posted myself.

92 Q-Don't you know it never was published in any book until 1852, or after that time? A-I can't say, for I have not paid particularly int rested in it.

93 Q-You were there at the time it was presented to the church? A-Where?

94 Q-Here in Salt Lake City? A-No sir.

95 Q-When did you first see it? A-In Nauvoo.

96 Q-You were in Nauvoo when you first saw it? A-Yes sir.

97 Q-What time was that?- A-I don't know the time but it was previous to the death of Joseph Smith.

98 Q-You represent that it was prior to the death of Joseph Smith? A-Yes sir.

99 Q-You did you not see it in 1835? A-I could not tell you the date, but I know it was in Nauvoo, and I know it was before the death of Joseph Smith. I could not tell you the date though.

100 Q-Did you see it in 1840? A-I don't know what time it was further than it was previous to the death of Joseph Smith.

101 Q-You were taught the principle of polygamy in Nauvoo in 1840 in Nauvoo,-not is that not the fact? A-I could not say, for I did not keep

any dates of it, so I can't say what time it was.

I03 Q-Well, were you not tempted it previous to 1500? A-I could not say. I have told you all I know about it with reference to the dates, and there is no sense or use in asking me these questions.

I03 [illegible]

I04 [illegible]

I05 [illegible]

I06 [illegible]

I07 [illegible]

I08 [illegible]

I09 [illegible]

I10 [illegible]

I11 [illegible]

I12 [illegible]

I13 [illegible]

I14 [illegible]

I15 [illegible]

I16 [illegible]

I17 [illegible]

I18 [illegible]

I19 [illegible]

I20 [illegible]

I21 [illegible]

I22 [illegible]

I23 [illegible]

I24 [illegible]

I25 [illegible]

I26 [illegible]

A-Yes sir.

I50 Q-What time did he marry you? A-I could not tell you the year.

I5I Q-Well about what year was it? A-I can't tell you -the year I believe,but I can come pretty near it. Let me see,-it was in about I840. I could not say positively that was the year,but I have the date at home and I can tell you by referring to that if it is essential that you should know.

I52 Q-Groves was a minister of the Church of Jesus Christ of Latter Day Saints? A-Yes sir.

I53 Q-You were a member of the Quorom of Seventy were you not? A-At that time?

I54 Q-Yes sir? A-No sir,-not at that time.

I55 Q-That was not the office you held at that tume? A-No sir,

I56 Q-Well what office did you hold at that time? A-It was after I went to Nauvoo that I held that office.

I57 Q-Well what office did you hold at the time you were married,if any? A-I don't know that I held any office.

I58 Q-Then you want to be understood that you were married by an elder in the church,at the time that you were married,and you were married according to the laws of the state of Illinois,and not according to the church formula? A-I was married according to the laws of the state of Illinois.

I59 Q-What ceremony was repeated to you? A-I do not know of any ceremony only the ceremony required by the laws of the state of Illinois

I60 Q- Was not this ceremony here in the book of Doctrine and Covenants repeated to you,at the time you were married? A-I cannot say.

I6I Q-Well I will read it to you,and then see if it is the one? A-The ceremony tha t was performed is one that I cannot remember.

I62 Q-Well I will read this ceremony here,and see if that is not the one that was performed at the time you were married?

Counsel for the defendants objects to the question asked the witness on the ground that it"is immeterial,impertinent,improper,and not cross examination".

I63 Q-I will read from paragraph two,section one hundred and one of exhibit "E",as follows,- "Marriage should be celebrated with prayer and thanks -giving;and at the solemnization,the persons to be married,standing together,the man on the right, and the woman on the left,shall be addressed by the person officiating,as he shall be directed by the Holy Spirit;and if there be no legal objections,he shall say,calling each by their names;-"you both mutally agree to be each others companions,husband and wife,observing the legal right belonging to this condi tion;that is keeping yourselves wholly for each other,and from all others during your lives". And when they shall have answered "yes",he shall pronounce them "husband and wife"in the name of the Lord Jesus Christ,and by virtue of the laws of the country and authority vested in him;"may God add his blessings and keep you to fulfill your covenants from henceforth and forever. Amen". What do you say to that? Was that the ceremony used? A-I don't remember what the ceremony was.

I64 Q-Is that the ceremony,-that is the ceremony that is in this book of doctrine and covenants? A-The ceremony that was used was the ceremony that was used at the time that I was married. It was the ceremony that was lawful in Illinois at that time.

I65 Q-And was it not the ceremony that was lawful in the church at the time you were married? A-Well of course I suppose it was.

166 Q-Well don't you know it was? A-I don't know anything about it,for I don't know what ceremony he used. I don't know a thing about it for I did not take any note of it,either to write it down or make any minute of it either in my memory or in any memorandum book;and so I can't tell you anything about the ceremony that was used,for I don't know or remember anything at all about it,one way or the other.

167 Q-This man Groves that married you,I believe you stated he was an elder in the church? A-Yes sir.

168 Q-Was he an elder in good standing in the church at the time he married you? A-Yes sir.

169 Q-And had been for some time? A-Yes sir.

170 Q-Now I will read this marriage ceremony to you again ,-"you both mutally agree to be each others companion,husband and wife,observing the legal right belonging to this condition; that is,keeping yourselves wholly for each other,and from all others,during your lives". Now was that repeated to you?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and not proper cross examination,and for the further reason that the witness has repeatedly stated that he does not recollect the cer-emony that was used on the occasion of his marriage,or any part of it.

171 Q-Answer the question,-was that repeated to you? A-I do not remember the ceremony that was used.

172 Q-Well do you remember anything like that? A-I don't remember anything about it. I don't remember anything that was said in that ceremony any more than if I was a dead man,-I don't remember a thing about it.

173 Q-Well you knew at the time you were married? A-Yes sir.

174 Q-You knew at the time you were being married? A-Yes sir

175 Q-You knew whether you were being married under the statute laws of Illinois,or under the laws of your church didn't you? A-Yes sir.

176 Q-Well which was it? A-I was married under the laws of Illinois I told you that previously.

177 Q-The minister that married you,used the statutes of Illinois,and read the marriage ceremony out of them did he? A-I presume he did.

178 Q-You presume he did? A-Yes sir.

179- Q-Well don't you know? A-No sir,I don't know"

180 Q-Groves had been a minister in Missouri,before that time,hadn't he? A-He was a minister before that but I don't know for how long.

181 Q-You had belonged to the church for a good while before that hadn't you? A-I had belonged to the church before that time.

182 Q-You had belonges to it six years? A-Yes sir,ever since '34 and that would be six years.

183 Q-And at the time of your marriage you were a member in good standing? A-Yes sir.

184 Q-And knew that you had a law of the church on marriage? A-Well,What is that?

185 Q-At the time you were married you know there was a law of the church on marriage did you not? A-Why yes I suppose so. I knew the members of the church married like other people.

186 Q-Now whom did you marry,-did you marry a member of the church? A-Yes sir.

187 Q-Now you want to go on record here as saying that some time between '36 and '41 you were married,-you do not know the year,but it was some where between these dates or years,-you were married by a minister of your own church,and married a woman who was also a member of-your church,and then you say that you were married according to the laws of the state of Illinois,and not according to your church law? Is that what you wish to go on record as being your statement? A-I say that I don't wish to decide on that point at all. That may-be xxxx correct and it may not be,-for I can't say what the ceromony was that was used,only I know it was according to the laws of the state of Illinois.

188 Q-You don't say you do not know anything about that at all, do you? A-I say I was married according to the laws of the state of Illinois,and that is all I do say". I have stated that repeatedly,but I can do it again if there is any satisfa ction to you in attempting to badger me in the way you are trying to do. Now that is the way of it,-I presume I was mariod according to the ceromony prescribed by the laws of the state of Illinois,-at least xf know I always supposed I was.

189 Q-Now you only suppose you were? A-Yes sir.

190- Q-You were taught before that time that it was necessary to be married according to the laws of the church were you not? A-Xxx I can't say!

191 Q-Well don't you know whether you were or not? A-I can't say whether I was or not. I don't know that I was.

192 Q-Did not Joseph Smith and the Twelve Apostles all teach that? A-They might have done it but I don't know. I am not so positive as to what they preached on that point.

193 Q-Did not the-church have certain officers that could perform the marriage ceremony? A-Yes sir.

194x Q-The church had certain officers that could perform the marriage ceremony,and certain other officers,-that is certain other persons who were officers in the church,and yet could not perform the marriage ceremony? A-According to the laws of the country, according to my understanding of that matter,all elders x in the church could perform the marriage ceremony,-that had the right to perform marriage ceremonies.

195 Q-They had the right to solemnize the marriage ceremony? A-I think so.

196 Q-Was it not the law of the church that elders and priests could perform the marriage xxxxx ceremony,and no body else could?

A-I don't know sir.

197 Q-You don't know about that? A-No sir.

198 Q-Don't you know that to be the fact,and don't you also know that the laws of Illinois did not say anything about it?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and improper cross examination.

A-I did not post myself about the ceremony. I left that x part of the matter in my case,entirely to Mr Groves. I know one thing and that was I was satisfied that I was married all right.

199 Q-Was Groves a civil officer in the state of Illinois A-Not that I am aware of,only that he was an officer in the church. He was an elder in the church,but I don't think he was an officer of the state of Illinois.

200 Q-Was he not in a Judge of a Court,or a Justice of the Peace?

A-He was not that I know anything of. If he was I didn't know anything of it.

201 Q-He did not hold any office that you know anything of in the state of ~~the~~ Illinois,-that is any civil office? A-No sir.

202 Q-Still you say you were married by Groves under the laws of the state of Illinois? A-That is what I supposed.

203 Q-Don't you know the laws of the state of Illinois did not authorize a minister, priest or elder to perform the ceremony of marriage? A-I don't know any thing about it sir.

204 Q-You don't? A-No sir, but I know that was the way I was married all right enough. I was young in those days, and I was satisfied I was getting a wife, and that was the main thing to me,-I was getting what I wanted,-a wife.

205 Q-Well now that will do, for you have answered my question? A-I have something more to say too,-I supposed I was getting ~~me~~ her lawfully,-

206 Q-Well I object to all this for it is not a responsive answer to my question.-

By Mr Cabell,-" We object also to the answer of the witness as well as the question to which it is an answer, on the ground that it is incompetent, irrelevant and immaterial, and not involved in any of the issues in this case"

By Mr P.P. Kelley,-

207 Q-At what time were you appointed a President of a Seventy? A-Well now if you want the exact date, I can't tell you.

208 Q-Well about what time were you so appointed? A-It was when I was in Nauvoo.

209 Q-It was while you were in Nauvoo? A-Yes sir.

210 Q-Well what year was that? A-Well as near as ~~y~~ I can tell you it was about '42 or '43,-some where along there, but I can't give you the exact date. I think however, that it was about that time.

211 Q-How did Joseph Smith attend the meetings of the Seventy of which you were the President occasionally, or over? A-He did occasionally. Yes sir he occasionally attended them, but not regularly.

212 Q-Did he attend the meetings of the Seventy on these occasions for the purpose of instructing them? A--Some times.

213 Q-How often'? A-Not very often.

214 Q-Well when he did come to the meetings of the Seventy for the purpose of instructing them, he instructed them in the laws of the church, didn't he? A-Yes sir, in the principles of the gospel.

215 Q-Did he also instruct you, or the seventy in the church rules and regulations? A-Well I don't know that he made that a principle point, but he did instruct us in the principles of the gospel.

216 Q-Did he not instruct in the church rules and regulations in connection with the other? A-Well I don't remember exactly, but I would naturally suppose he did that. I would naturally suppose he did that, but my memory don't serve me to say whether he did or not Now if you would ask me for my impression I would say I think he did.

217 Q-Well I am not asking you for your impression,-I am asking you for your knowledge, and when I want your best impressions I will ask you for ~~xxxx~~ them?
A-Well then I don't recollect whether he did or not My memory don't serve me to answer that question.

218 Q-Well then in connection with the instructions he gave you on

the question of polygamy? A-No sir"
219- Q-He did not? A-No sir.
220 Q-Did you not say he did? A-No sir he never did. Joseph Smith never said a word about it in my presence,and I told you that before.
221 Q-He never instructed you on that question,nor the Quorom of Seventy to your knowledge? A-No sir,not to my knowledge,-he never said a word about it in the quorom of seventy to my knowleage on the question of polygamy.
222 Q-Well you understood the doctrine of polygamy did you not? A-I understood that that was the doctrine
223 Q-You were taught that by some body? A-Yes sir.
224 Q-What doctrine was that? A-The doctrine taught in that revelation.
225 Q-And you understood that as early as 1842? A-I did not say so sir.
226 Q-Well as early as 1843? A-I didn't say that either.
227 Q-Well what did you say? A-I said I heard it before the death of the prophet Joseph Smith during some of those years,-I did not say the year,for I don't remember the year,but I know it was before the death of Joseph Smith.
228 Q-Well was it about the time that you became a member of the quorom of Seventy? A-That I first heard of that?
229 Q-Yes sir? A-It was after that?
230 Q-It was after you became a member of the quorom of Seventy? A-Yes sir.
231 Q-Now what makes you think it was before the death of Joseph Smith that you heard that,and it was taught to you"? A-Well I know it was,-I don't think anything about it,-I know it.
232 Q-Well,how do you know it? A-Because he was living,-he was alive at the time.
233 Q-You know it in that way? A-Yes sir.
234 Q-Well now I will ask you how you know he was living, and alive there,if you never heard him say anything about it? A-Why I saw him walking around the streets,and in public places and congregations, I heard him preach many a time,and I know that he was there,and that he was alive.
235 Q-Well you were instructed at that time,during the life time of the prophet Joseph Smith,-you were instructed by some one on the question of polygamy? A-Yes sir.
236 Q-By whom were you instructed? A-I cannot tell you
237 Q-It was not by Joseph Smith,though? A-No sir.
238 Q-Can you tell me the name of one man who so instructed you? A-I referred you before to President John Taylor,but told you that what he said was in an indefinite manner.
239 Q-Are you positive of any body who instructed you in a definite manner? A-No sir.
240 Q-You can't positively name anybody? A-No sir.
241 Q-Did you ever talk to any woman about it? A-What I mean for you to understand that Joseph never taught me anything about it,or said anything to me about it.
242 Q-Well did you get your teaching from the ladies? A-Some of from the ladies.
243 Q-When at that time? A-Yes sir.
244 Q-Was that prior to 1844? A-Certainly,-it was prior to his death I told you. It was while Joseph was living,-all this happened

while Joseph was living.
245 Q-Do you know when Joseph died? A -Yes sir.
246 Q-Well when did he die? A-He died in 1844.
247 Q-Do you know the date of his death? A-Yes sir.
248 Q-When was it? A-It was June 27th 1844. I think that was the daot if I remember right. I have written the date often enough and I should to remember it, so I think there is no mistake about it that he died June 27th 1844.
249 Q-Now Joseph Smith was the highest officer in the church wasn't he at that time? A-Yes sir.
250 Q-And the chief teacher in the church? A-Yes sir.
251 Q-Now did you ever go to him,-when you heard this question of plural matriage, or polygamy advanced, did you ever go to him to asertain whether it was correct or not? A-No sir.
252 Q-You took no pains to find that out at all? A-No sir I didn't go to him.
253 Q-Well did you go to any body else? A-Yes sir, I talked with a good many people.
254 Q-Who did you go to? A-I talked to a good many people,-both males anf females.
255 Q-Did you ever hear it preached to any congregation publicly or privately by any minister? A-Before the death of Joseph?
256 Q-Yes sir? A-No sir.
257 Q-Did you ever hear it preached to the church? A-No sir you never heard it presented to the church, or its presented
258 Q-ing presented to the church, in the life time of Joseph Smith? A-No sir not from the stand,-not publicly.
259 Q-Did you ever hear it presented to the church privately? A-Not by Joseph Smith.
260 Q-By any body prior to his death? A-Not to the church, but to individuals of the church, I have sir.
261 Q-Then you never heard it presented to the church either publicly or privately-prior to Joseph Smith's death? A-Not by Joseph Smith, or by any authorities in the church I didn't. I never heard it preached publicly in his day.
262 Q-Not by any authority in the church prior to his death? A-No sir.
263 Q-Either publicly or privately? A-No sir, not by the authorities of the church, in public.
264 Q-Did you ever hear it presented to the church either in public or in private, by any officer of the church, prior to the death of Joseph Smith? A-No further than I have already stated. I cited brother John Taylor, but I am not positive about that or about what he said to me.
265 Q-You just heard the rumor that there was that kind of a revelation? A-Yes sir.
266 Q-You just heard the rumor, and nothing more? A-Yes sir, but it was generally understood by the people in Nauvoo that it was so, and was talked about a good deal.
267 Q-Did you see it yourself? A-See what?
268 Q-See the revelation? A-I don't know that I saw it just at that time, but I saw it previous to his death
269 Q-You saw it previous to his death, you say? A-Yessir
270 Q-Previous to whose death? A-Joseph Smith's.
271 Q-Was it printed or written? A-I could not tell you that.

272 Q-In what shape was it? A-I can't tell you.
273 Q-You don't know whether it was printed or written? A-No sir.
274 Q-Was it in book form? A-I could not tell you?
275 Q-Was it in pamphlet form? A-No sir.
276 Q-You don't know anything about it,or who presented it,do you? A-No sir,I can't say what shape it was in,but I understood it perfectly well.
277 Q-Well who presented it to you? A-That is something I don't know. I cannot tell you who it was.
278 Q-Did you read it? A-I either read it myself or heard it read.
279 Q-And that was prior to 1844? A-Prior to the prophets death I did.
280 Q-You read it you say? A-I understood a bout it.
281 Q-Did you hear it read? A-I understood all about it at that time.
282 Q-Well did you hear it read,-that is the question? A-Well I would not say,-
283 Q-Now don't you know you did not? A-Well now I am in no hurry. Just give me time to answer these questions and we will get along all right. I am trying to answer these questions the best I can,but all this happened a long time ago,and I have to think over them before I can answer them.
284 Q-Well I am in a hurry and I want to get through for I am paying three dollars a day for my board? A-Well now a good many of these things I forget,and I have to study on them,-
285 Q-Well did you hear that revelation read,? A-I would not swear positively that I ever heard it read.

286 Q-Now did you ever see it prior to Joseph Smith's death in any shape or form? A-I heard it talked of.
287 Q-Well did you ever see the paper on which it was written or printed? A-As positive testimony I could not swear to that. I would not wish to do so,for I cannot conscientiously do it.
288 Q -No,I guess not? A-No sir I don't say that I saw it as a positive fact.
289 Q-What made you say a while ago that you saw it and either read it yourself,or heard it read? A-I don't know that I said that
290 Q-You don't know that you said that? A-No sir,I don't know that I did.
291 Q-Do you swear now that you did not say that? A-No sir,I didn't swear that at all.
292 Q-You did not say that? A-No sir,
293 Q-If you did say that and the records shows it,then it is a mistake? A-I merely said according to the best of my recollection.
294 Q-If you said so,you made a mistake? A-Well that depends upon the contraction you place on it upon it
295 Q-Well what do you now say about it? A-I say that according to the best of my recollection I have no recollection of reading it,and still I might have done it.
296 Q-Well what is your recollection about hearing it read? A-The same.
297 Q-It is the same? A-Yes sir,but I remember,-I know that I heard it frequently referred to.
298 Q-You heard the revelation referred to frequently? A-Yes sir.
299 Q-When ? A-By other parties.
300 Q-When? A-Previous to the death of Joseph Smith.
301 Q-How long before the death of Joseph Smith? A-I could not say how long before his death.

302 Q-Was it in the shape of a rumor or some one teaching it? A-It was in the shape of a conversation

303 Q-Between yourself and some other parties? A-Yes sir

304 Q-That was the way it was? A-Yes sir.

305 Q-Where did these conversations occur? A-At various places.

306 Q-Was it in a meeting? A-No sir.

307 Q-Was it on the street? A-I could not say.

308 Q-Was it in a private house? A-I could not say.

309 Q-You can't say where these conversations were had in which you heard this doctrine advanced, or heard the rumor that there was such a doctrine in existence? A-I can't say but I know it was in private interviews

310 Q-Was it in connection with John C. Bennett that you heard it? A-Well I could not say that it was particularly in connection with him. I know John C. Bennett and his affairs frequently came up in conversation, but I can't say that it was in this connection.

311 Q-Do you say that it was not in connection with conversations in which John C Bennett, or some of his folks participated?

Counsel for the defendant objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial, and not proper cross-examination, and on the further ground that the witness has stated that he cannot say whether it was in connection with John C Bennett and his affairs.

A-I could not say.

312 Q-You do not say it was not?

Counsel for the defendants objects to the question asked the witness for the reason and on the grounds as above set forth.

A-No sir.

313 Q-You do not say it was not? A-No sir, I could not say it was not. John C. Bennett and his affairs I remember came up frequently but whether it was in connection with this revelation or not I could not say.

By Mr Kolley,-"I move the Court to exclude that as not responsive, and incompetent,-it is not responsive to my question.

314 Q-Now how has that revelation been taught since you have been in Utah?

~~Counsel for the defendants objects to the question asked~~
~~thexxitxessxonxthexxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~

Counsel for the ~~plaintiff~~ drfendants objects to the question asked the witness on the ground that it is incompetent and immeterial to any issue in this case, and improper cross examination.

315 Q-Answer the question? A-How has it been taught in Utah?

316 Q-Yes sir? A-Well so far as I understand it has been taught in Utah according to the revelation itself.

317 Q-Well I mean with reference to its being taught publicly or privately? A-Well publicly. I have heard it taught publicly. I have heard it referred to,-well I don't know what you would call it.

318 - Q-You have heard it taught from the stand to public congregations here? A-Yes sir.

319 Q-You have heard it taught by all classes of officers in the church, from the Presidency down, by all the officers of the church that you have ever heard preach upon that subject?. A- I have frequently heard it referred to, and elders bear testimony to the truth of it. Now I have heard that here in Utah.

320 Q-And you have heard the President of the church here, Brigham Young, at that time,-that is the time ~~that~~ h

the time-he was the President of the church here,-proclaim it from the stand publicly? A-I think I have.

321 Q-And your present Presiden,-President Woodruf? A-Well I don't know. I presume he has done so,but I do not remember hearing him say anything,about it.

322 Q-Well you have heard President John Taylor? A-Yes sir.

323 Q -And George Q. Cannon? A-They have all referred to it in their testimony,and bore testimony to its truth.

324 Q-And have taught the principle of polygamy? A-I thing they have.

325 Q-And that has been one of the doctrines of the church since you have been here in Utah? A-According to my understanding it has.

326 Q-Was that doctrine presented to the church here,for adoption? A-I can't tell you.

327 Q-Do you say it was not? A-No sir.

328 Q-Do you say it was ? A-Was what?

329 Q-Was presented to the church here,for adoption? A-I say I can't tell you.

330 Q-Were you here in 1852? A-Here in Utah?

331 Q-Yes sir,that is the question I asked you? A-No sir I was not here at that time. I came here in 1859

332 Q-You came here in '59 you say? A-Yes sir.

333 Q-From where? A-I came from Nauvoo here.

334 Q-In 1859 you came from Nauvoo here? A-Yes sir.

335 Q-Now where was it you first saw the published statement of the pretended revelation on polygamy? A-I could not tell you.

336 Q-Do you say you do not know anything about that? A-I can't remember.

337 Q-Can''t you remember when you first saw it? A-I can't fix the date.

338 Q-Do you remember where you first saw it? A-No sir

339 Q-Was it in the "Pearl of Great Price"?

Counsel for the defendants objects to the question on the ground that it is improper ~~xxxxxx~~ cross examination,irrelevant and immaterial,and on the further ground that the witness says he cannot remember when or where it was he first saw the revelation referred to.

A-I coul not tell you where I first saw it.

340 Q-Don't you know that it was never published in the book of Doctrine and Covenants until 1878'?

Counsel for the defendants objects to the question asked the witness for the reasons and on the grounds as above set forth.

A-I do not know.

341 Q-Would you say it was? A-I would not say whether it was or was not. It is sufficient for me to know it was there,and always has been ~~xxxx~~.

342 Q-Always has been? A-Yes sir.

343 Q-Always has been you say? A-Yes sir.

344 Q-Since when? A-Since it~~x~~ was put there first.

345 Q-Now you said it was always there,-from what time? A-I can't say.

346 Q-Don't you know it was never published in this book prior to 1876?

Counsel for the defendants objects to the question ~~asked the witness~~.

on the grounds that it is incompetent,irrelevant and immaterial improper cross examination,and on the further ground that the witness has stated already that he does not know when it was first published.

347 Q-And he has stated that it was always there,he should surely know something about it,for it appears now that he remembers the time when it was not there don't you know it was not published in the book of Doctrine and Covenants until 1876? A-I don't know

348 Q-Well would you say it was? A-I would not say whether it was or was not.

349- Q-Don't you know it was not continued in the 1835 edition of the book of Doctrine and Covevants? A-I could not tell you.

350 Q-And don't you know it was not in the 1844 edition of the book of Doctrine and Covenants? A-I cannot tell you.

351 Q-Nor in the 1845 edition? A-I can't tell you I never bother myself about it at all.

352 Q-Don't you know it was not in the edition of 1852 that was published here in Salt Lake City? A-I don't know anything about it.

353 Q-Then you do not know when it was published first? A-No sir,I know it is in there,but I don't know the edition it was first published in.

354 Q-You know when it was presented first to the church here in the Tabernacle in Salt Lake City,-you have read about that have not you?

Counsel for the defendants objects to the question asked the witness for the reason that "the witness has stated he could not remember,and was not here at the time".

355 Q-What do you say to that? A-I say I don't know.

356 Q-You have read about it haven't you? A-I don't know whether I have read about it or not.

357 Q-Have you not read the sermon that Brigham Young delivered at the time that he presented it here to the Conference assembled in 1852? A-I don't know. I may have done so,for I have read a great many of Brigham Young's sermons.

358 Q-Have you not read that sermon? A-I don't remember all of them.

359 Q-Well did you read that sermon,-answer the question? A-I do not remember.

360 Q-Well did you read the written argument that was conducted between Joseph Smith-of Plano,Illinois, now of Lamonia,Iowa,and Brigham Young,-and yourself I mean?

Counsel for the defendants objects to the question asked the witness for the rejson and on the ground that it is incompetent,irrelevant and immaterial to any of the issues involved in this case,and is improper cross examination.

361 Q-I will modify the question,-You conducted the correspondence between Joseph Smith now of Lamoni,Iowa, but previously of Plano,Illinois,did you not?

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons set forth in the last proceeding objection

A-Yes sir.

362 Q-Now did he not cite the fact to you there in that correspondence,that the first time this pretended revelation on polygamy was presented to the church,was in 1852? A-He might have done so. I don't remember.

363 Q-Did you not reply to that? A-I couldn't say what I replied to it.

364 Q-He wrote to you? A-Yes sir.
365 Q-And you replied to his letter? A-Yes sir. I replied to a great many items in his letter,but I don't remember now any particular item that I replied to.
366 Q-Did you not in your correspondence with Joseph Smith,in reference to this matter,-in relation to this revelation on polygamy,-did you not in that correspondence between yourself and Joseph Smith the President of the Re-organized church of Jesus Christ of Latter Day Saints,say that Brigham Young in a discourse here in the City of Salt Lake,claimed that there was no man on earth ever saw that revelation until th time when it was presented here in 1852,or that has a copy of it?

Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons that it is incompetent,irrelevant and immaterial,and improper cross examination,and the witness says he is unable to recollect what was in his reply.

A-I don't remember that.
367 Q-Will you swear that you did not write that? A-I A-Write what.
368 Q-In substance,what I have repeated to you? A-I cannot say.
369 Q-Well what do you say,-you must remember something about it? A-The correspondence will show for itself what I wrote.
370 Q-Will you swear that is not in it? A-I don't know whether it is or is not.
371 Q-Well if it is in there is it true? A-I don't remember whether it is in there or is not. I don't remember anything about it.
372 Q-Well if it is in there is it true? A-The correspondence speaks for itself,and it is still in existence I suppose.
373 Q-If it is in there,-if that statement is in the reply that you wrote to Joseph Smith,is it true? A-I guess you are familiar with it,-
374 Q-Well yes,I guess I am just as familiar with it as you are,-just exacly as familiar with it as you are, although you are a good many years older than I am, I have no doubt but that you know right well what is in it,but if you are willing to go on record as evading the question in that way all right,-Now you say you heard some ladies and gentlemen talk about this polygamous revelation in Nauvoo,Illinois? A-Yes sir
375 Q-Now I will ask you if it was not at the house of John C. Bennett that you heard this talk? A-No sir.
376 Q-At the house that was built just north of the temple there in Nauvoo? A-No sir.
377 Q-It was not there? A-No sir. I don't know that I ever was in-his house at all.
378 Q-You know where that house that was just north of the temple stood,-the house that was tumbled into the ditch? A-If there was any house there that was tumbled into the ditch I am not cognizant of it,nor I don't remember of any such an occurence.
379 Q-Did they tumble any house at any place there in the ditch? A-No that I remember of. If they did do it, and I knew it at the time,I don't remember anything about it now.
380 Q-Were you in Nauvoo all the time up to 1844? A-I was there at the time he was killed.
381 Q-Were you there from 1840 to 1844? A-Well about '40 or '41 was the time according to the way my memory serves me now,that I went to Nauvoo.
382 Q-I don't understand that? A-I say I think it was in '41 or '42

that I went to Nauvoo,-'41,'42 or'43,-some where along there was the time that I went to Nauvoo. That is my memory,but I guess it was about '41.

383 Q-After you first went there,you went off on a mission to some place did you not? A-After I first went there?

384 Q-Yes sir? Were you not away on a mission some place after you moved to Nauvoo? A-Yes sir.

385 Q-Where was your mission? A-I was on a mission to England.

386 Q-In what year? A-I went in '38 I think it was.Yes sir I think it was in '38.

387 Q-You went with John Taylor? A-No sir.

388 Q-Where was he at that time? A-John Taylor was in England at the same time. No sir he was not either, for I went just after President Taylor had returned from his mission.

389 Q-How long was it after he returned that you went? A-Well the date might have been a year afterwards,-it was in '38 or '39 if I remember right that I went to England on the mission.

390 Q-Was it before you went to Nauvoo that you went on your mission to England,or was it ~~xxxxx~~ afterwards? A-I went to Nauvoo when they were in winter quarters there,and while the camp was in winter quarters I was sent to Nauvoo,-I mean to England on this mission

391 Q-Well what time was it that you were there under those circumstances? A-I don't remember the date exactly.

392 Q-It was in 1840 was it not? A-In '40 or '41(???),- I think it was in '40,but I could not say the date positively.

393 Q-Where were you on a mission prior to the death of Joseph Smith~~x~~ if at all? A-I was never sent on but one mission before his death,but this,and that was down in Madison County,Illinois.

394 Q-Well when was that? A-Well that was but a short time previous to his death.

395 Q-A short time you say,-how long? A-Well about a year,-perhaps a year and a half or something like that.

396 Q-That was down in Madison County? A-Yes sir.

397 Q-Well how long did you remain there? A-Just a short time.

398 Q-Well how long was it? A-Only a few months.

399 Q-Who was in company with you,if any body? A-I was ~~xxxxxx~~ by myself,-that is I know what you mean,-who were associated with me down there?

400 Q-Yes sir? A-None at all,-no one.

401 Q-You taught the plural wife ~~xx~~ doctrine while you were on that mission,did you not? A-No sir.

402 Q-You did not? A-No sir. I did not teach it.

403 Q-Had you heard of it? A-I told you that I had heard of it previous to the death of Joseph Smith.

404 Q-Well had you heard of it previous to your going on that mission? A-I can't say. I presume I did.

405 Q-Well will you say you had,or had not? A-I could not say whether I had or not,but I think I had heard of it before that. I think I had,but I would not state positively.

406 Q-If you had taught it to any body while you were on that mission do you think you would have been cut off from the church for so doing? A-I did not teach it to any body while I was on that mission.

407 Q-You did not teach it while on that mission for the reason you knew you did not have the right to teach it? A-If I knew about it of course that is correct" I do not say that I knew about it that time,but I think I did,and I did not teach it to any body at that time however.

408 Q-You knew you had no right to-teach it? A-I went there to teach the first principles of the gostel.-
409 Q-You knew you had no right to teach polygamy? A-Yes sir,I considered that I had no right to ~~xxxxx~~ it
410 Q-You did not think you had the authority to teach it? A-Certainly not.
411 Q-You would not say ~~xx~~ you understood about it? A-No sir,I would not say positively,but I understood about it previous to his death,and while he was living. ~~xx~~ I understood then that the principle ~~xxx~~ was taught and practiced in the church.
412 Q-And talked with him about it? A-With Joseph?
413 Q-Yes sir? A-No sir,and I didn't say I talked with him about it.
414 Q-Now you say that the doctrines of the church since you have been here in Utah, is just the same as was taught in the old church while it was at Nauvoo? Prior to 1844 I mean?Did you not say that?

A-Why you asked me a question in relation,-
415 Q-In answer to Mr Hall's question did you not state that? A-Why the ceremony,-the law here is the same as it was then governing that,but you asked me a question touching polygamy?
416 Q-Well the law of the church is just~~x~~,-? A-You asked me if polygamy ~~x~~ is or was taught here the same as it was there.
417 Q-Just ~~xxx~~ wait a moment. Now in answer to a question asked you by Mr Hall,-you stated that the law of marriage in Utah territory since the church had ~~x~~ been here,was the same as it had been in Illinois,inNauvoo,before they left there?
Counsel for the defendants objects to the question asked the ~~xxxxxx~~ ground that the witness has not been asked any such a question.
A- I don't remember that.
418 Q-Don't you recollect that you were asked that question,and answered it? A-I don't recollect answering that question at all.
419 Q-Well did you answer this question that the doctrine of polygamy as taught here in this territory by the church here,was the same as was taught in Nauvoo? A-Well that is the question that I answered before.
420 Q-And you say that the doctrine that is taught here in Utah is the same as taught in Nauvoo when the church was there,prior to 1844? A-Yes sir.
421 Q-What is it? A-In respect to the pnurality doctrine
422 Q-The doctrine regarding plurali ty of wives is the same? A-Yes sir.
423 Q-And on your cross examination you said it was not taught there? A-What doctrine was not taught there?
424 Q-The plurality doctrine? A-It was taught,but it was not taught publicly.
425 Q-You said it was not taught publicly or privately by any officer of the church to the church,-Did you not say that? A-My answer was that it was not taught in public.
426 Q-Well was it taught in private to the church? A-Not to my knowledge by ~~xxx~~ Joseph Smith.
427 Q-Well was it taught by any body else to the church in private? A-I can't say,-it was talked of.
428 Q-Was it taught to the church in private? A-No sir not to the church by individuals.
429- Q-Well then what maked you say that the law of polygamy as you

say it was;taught to the church in Nauvoo,is the same as the doctrine that was taught to the church here,in Salt Lake City,and in Utah territory? A-So far as the polygamy part of it is concerned,it is the same.

430 Q-But you said it was not taught to the church there as polygamy? A-Yes sir.

431 Q-That is what you said? A-Yes sir and I say so now

432 Q-It is taught here? A-Yes sir it is taught and practiced here. At least it has been taught and practiced here,but it is not practiced hereor now.

433 Q-And you swear to that as positively do you,as to anything ~~exty~~ else you have testified to? A-What?

434 Q-That it is not taught or practiced here at the present time? A-A-Not to my knowledge. I believe it not to be.

435 Q-You believe it not to be? A-Yes sir.

Counsel for the defendants objects to this line of examination on the ground and for the reasons that it is incompetent,irrelevant and immaterial,and improper cross examination.

436 Q-And that is the reason it is not taught?

Counsel for the defendants objects to the question asked the witness on the grounds and for the reason that it is irrelevant and immaterial to any issues involved in this case,and is improper cross examination.

A-No sir the reason of it is because the practice of it in Utah has ceased according to my understanding of it.

437 Q-Well now did it come about that the church ceased to practice polygamy and teach it? A-Well it stopped it,and that is sufficient.

438 Q-Was it by a vote of the church?

Counsel for the defendants objects to the question on the ground that it is irrelevant and immaterial to any of the issues in this case,and is not proper cross examination.

A-It was.

439 Q-It was by a vote of the church? A-Yes sir,it was by a vote taken at a conference,so I understood,but I can't say positively for I wasn't present at the conference.

440 Q-You were not at the conference? A-~~Y~~ No sir.

441 Q-You were notified of the action of the conference by reading the minutes of it?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial and is improper cross examination.

442 Q-Answer the question,-you were notified of the action of the conference by reading the minutes of it? A-Yes sir,but I was not present at the conference.

443 Q-You know there was a vote taken by reading the minutes of the conference,and the claim was that there was ten thousand members of the church present who voted on it?

Counsel for the defendants objects to the question asked the witness on the ground that it is immaterial,and is not proper cross examination,and does not call for the best evidence.

A-The minutes of the conference is the best evidence

444 Q-Well fortunately you are not passing on the question as to whether it is the best evidence or not? You know there was a vote taken by reading the minutes of the conference,and the claim was that there was ten thousand members of the church present and who voted upon it,-is that not the fact? A-That is about my recollection

445 Q-That is your recollection of it,that there was ten thousand persons,members of the church present who voted on it? A-Yes that is my recollection of it. That is correct according to my recollection of it,- ~~but~~ my best recollection is I thing that ~~there~~ it was estimated there was about ten thousand,-or about that many present.

446 Q-How then it was abolished by a vote of the church? A-Yes sir. That is my understanding of it.

447 Q-It was abolished by a vote of the church,but the church went into it without any vote? A-That is my understanding,-well now I could not say.

448 Q-Did the church ever take a vote on it,when you say it was taught privately around there? A-No that I am aware of.

449 Q-You never heard anything either in public or private,or from any officer of the church,or any one in authority,about its being presented to any body of the people for adoption in Nauvoo?

Counsel for the defendants objects to the question asked the witness on the ground that it is irrelevent and immeterial,and not proper cross examination.

450 Q-Answer the question? A-What is the question.

451 Q-You never heard anything either in public or in private or from any officer in the church,or from any one in authority in the church,about its being presented to any body of the people ~~xxxxxxxxxxxxxxxx~~ in Nauvoo for adoption? A-Do you mean for the adoption of the law of polygamy?

452 Q-Yes sir? A-No sir.

453 Q-How was it not a law or rule of the church prior to 1844,that anything,in order to become a law of the church,must be presented to the church,and be adopted by the church?

Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immeterial,is improper cross examination,and does not call for the best evidence.

A-I could not swear to that either way, but I think that is contained in the book of Covenants.

454 Q-All revelations? A-I think it is.

455 Q-That everything must be done by the consent of the church? A-I think that is contained in the book of covenants?

456 Q-Yes sir,it is? A-Yes sir.

457 Q-And that was the law of the church prior to 1844 was it not? A-Well it is in there and I think it is binding the same as all other matters that are in there.

458 Q-Was it not the law of the church that everything must be one in order and by the common consent of the people before it could become a law ~~of~~ to the church

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and not proper cross examination,and not the best evidence.

A-That has been the general practice.

459 Q-What? A-That has been the general practice. I believe it has been the general practice.

460 Q-That has been the general prictice? A-Yes sir.

461 Q-That was the universal practice prior to 1844 was it not? A-It has always been so far as I understand it.

462 Q-And does not the law of the church prescribe that there shall be nothing done contrary to the church covenants?

Counsel for the defendants objects to the question asked the witness for the reason and on the grounds that it does not call for the best evidence.

463 Q-Answer the question? A-What is the question?
464 Q-Does not the law of the church,-did not the law of the church prior to 1844,prescribe that there should be nothing done contrary to the church covenants and articles? A-I could not answer that. I couldn't swear to that.
265 Q-You could not swear to that? A-No sir.

Counsel for the defendants moves the court to strike out "all the questions that has been asked the witness on this line of examination,on the ground that it is incompetent,irrelevant and immaterial,and improper cross examination."

466 Q-I will ask you if it was not the universal custom, the rule and law of the church,that all revelations and doctrines before they become a law of the church,must first be presented to the church,and be accepted by the church?

Counsel for the defendants objects to-the question asked the witness on the ground and for the reasons that it is not the best evidence,is improper cross examination,and is incompetent,irrelevant and immaterial,.

A-I think that has been the practice,always of the church.

467 Q-And it has always been the law? A-As a general thing it has been,as so far as I understand it.
468 Q-Do you know of any exception of that rule? A- I know nothing only what is contained in that book there.
469 Q-Do you know of any exception to that rule? A-No sir,I don't know that I do.
470 Q-That is all?

Re direct examination by Mr Hall,-

471 Q-In your cross examination Mr Littlefield you stated that you were baptized in 1844? A-In '34 it was.
472 Q-You said in 1844 in your cross examination? A-I don't think I did,-I meant to say '34 if I did.
473 Q-You meant to say in 1834? A-Yes sir,for I was baptized in 1834,and if I said '44 I made a mistake,for it was in 1834.
474 Q-You also stated in giving the ~~xxxtx~~ date that you went on a mission to England as being in 1838 or 1839? A-Did I,-if I did it was a mistake,for it was after the death of Joseph Smith that I went on that mission,-it must have been in '40?
475 Q-You meant to say '45 instead of '39? A-Yes sir, for we left Nauvoo in '46,and it should have been '45 instead of '39 that I went on that mission to England. There was a mistake there of ten years.
476 Q-Now I want you to state to the reporter,Mr Littlefield what your occupation was at Nauvoo?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial, and not proper re-direct examination.

A-I was employed in the printing office there.
477 Q-In what printing office? A-In the office of the "Times and Seasons".
478 Q-I would like for you to state to the reporter who was the editor of that paper,-the Times and Seasons ,-at the time that you were employed there?

Counsel for the plaintiffs objects to the question asked the witness on the ground and for the reason that it is incompetent,and not the best evidence,and is immaterial.

A-Well Joseph Smith was its editor for a season,and he was succeeded by John Taylor,as I understand it.

Counsel for the plaintiff objects to the answer of the witness,and moves the Court to strike same from the record on the ground that it is not responsive the the question.

A-I worked under both editors there in that office,-both of them.

479 Q-Do you remember Mr Littlefield who was present with Joseph Smith,when he was killed in the Carthage jail?

Counsel for the plaintiff objects to the question asked the witness, the ground and for the reason th t it is incompetent,irrelevant and immaterial,and not the best evidence,-unless it appears that the witness was present at the time.

A-Well I was not present there,but I know from the General report who was there,I know from the testimony of other men who was there,who was present.

Counsel for the plaintiff objects to the answer of the witness,and moves the court to strike same from the record as hearsay and not responsive to the question asked.

A-John Taylor was there,and Willard Richards was there,and Cyrus Smith was there. If there was any one else there I don't know those names I have given and Joseph Smith himself,it don't just at this time occur to me who they were,but there might have been many more.

Counsel for the plaintiff moves to exclude the answer of the witness from the record as hearsay,and incompetent.

A-I was not present in the jail when he was killed, and I could not swear to that positively,for I was not present in the jail at the time.

480 Q-Now in your cross examination you made a statement, and I will now ask you to state to the reporter if you know whether John Taylor was in Nauvoo,at or about that time?

Counsel for the plaintiff objects to the question xxxxxx xxxxxxxxxx on the ground that it is immaterial.

A-About the time of the killing?

481 Q-Yes sir? A-Yes sir he was there. I know that for I was boarding at his house at the time,and of course he was in jail,and I know that from one fact,-because he was brought in two or three,and I was one that went out to meet his body and helped to bring him in I met his wounded body,and helped to bring him into Nauvoo.

Counsel for the plaintiff objects to the answer of the witness and moves the court to exclude it from the record as incompetent,irrelevant and immaterial,and hearsay.

A-I know it too,for I waited on him a good deal after that while that he was sick from his wounds.

482 Q-Will you state to the reporter Mr Littlefield what you know about revelations being given and xxxx acted upon by members of the church,before being presented to the officers and the church in general assembly for acceptance?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and hearsay.

A-I could not say. I couldn't state anything positive in relation to that matter I don't think.

483 Q-I will get you to state to the reporter Mr Littlefield,if you attended any of the conferences held by the church,-general conferences? A-In Nauvoo do you mean?

484 Q-Yes sir,or any where else,from the time that you became a member of the church,up to the time of the death of Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness

on the ground that it is incompetent, irrelevant and immaterial, and not proper re-direct examination, and is leading

A-A general assembly. I have attended general conferences, but I have no recollection of attending what could be called a general assembly.

485 Q-Will you state to the reporter whether or nota general assembly was ever held by the church between the years 1835 and 1844?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial, irrelevant and not the best evidence.

A-I have no recollection of a meeting of that kind.

486 Q-I will ask you to state to the reporter if any revelation given to the church through Joseph Smith, were ever acted on at any of the general conferences you were attending from the time you became a member of the church, until the time of the death of Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reason that it is irrelevant, immaterial and incompetent, and not the best evidence.

A-Well I have no recollection of it, but still such a thing-might have been done, but if it was I don't remember it. If it was done I was not present, and to the best of my recollection and memory there was no such a thing done.

487 Q-You can't say positively whether that was the rule or not?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons above set forth, and on the further ground that it is leading and a cross examination by defendant of their own witness.

A- I could not state positively whether it was done or was not done.

Re-cross examination by P.P. Kelley,-

488 Q-How when did you first go into the Times and Seasons office in Nauvoo? A-When did I first go into it to work?

489 Q-Yes sir? A-Well I went in there first,-let me see, -Why I went in there first while it was printed by Robinson and Smith. Firstly I went into it when they were publishing it, and then they sold out to Joseph Smith, and he became the editor, and he then vacated to John Taylor.

490 Q-What Smith was that that was in with Robinson and Smith? A-It was Don Carlos Smith. I went personally into that office soon after I went to Nauvoo.

491 Q-What time was that? A-The time I went to Nauvoo,- I don't remember exactly the date.

492 Q-You do not remember the date you went to Nauvoo? A-No sir, not exactly.

493 Q-Were you at Far West in 1836? A-At Far West Missouri?

494 Q-Yes sir? A-I was there when the church left there At least I was not in Far West when it was vacated for I had left there previously and had gone to Liberty, and X I was at Liberty, Clay County when that vacation took place.

495 Q-Do you remember about a revelation being given while the church was at Far West, Missouri? A-I don't recollect of any revelation. I don't remember, but there might have been, but if there was I don't remember it now. That is I don't remember the dates o the revelations.

496 Q-Do you remember there at Far West when the revelation was given on tithing and surplus property in 1836? A-At Far West?

497 Q-Yes sir? A-No sir,I don't recollect anything about that. I don't think I remember anything about it at all.

496 Q-You don' recollect whether it was presented to the conference,and accepted by the people? A-No sir

499 Q-You were not there then? A-No sir

500 Q-And you don't know anything about that? A-No sir if that occurred it was perhaps it was during my absence. In this city in Clay County,for I had gone

501 Q-Do you recollect when the revelation of 1841 was given in Nauvoo,Illinois? A-In '41?

502 Q-Yes sir? A-What revelation do you refer to? Say I am what revelation you refer to?

503 Q-Well was there more than one revelation given in 1841? A-I don't

504 Q-Well,have you any recollection about that? A-I have no recollection about it at all. I don't say what was given in '41,I may have been away until long in 1841 for all I know to the contrary.

505 Q-I mean the revelation for building the building of the temple? A-There was a revelation given about the building of the temple, there,but I cannot remember even about the building of the temple there,but the date of it is somewhere I can't now remember.

506 Q-Well do you recollect the time it was given? Was you there? A-I think I was.

507 Q-You think you were there? A-Yes sir.

508 Q-Do you recollect that being read to the church when it came on? A-Voted on by church?

509 Q-By the church? A-No sir I don't.

510 Q-Do you say it was not? A-I say I don't remember.

511 Q-You do not say it was not? A-No sir.

512 Q-Now you say you have no recollection of any general assembly of the church from '4[illegible] on? A-No sir.

513 Q-You do not mean to say there was not any general assembly of the church held from 1844 to 1847? A-No sir. I do not mean to say there was not,but I was never present at any that I remember of.

514 Q-How far do you live from this city? A-I think it is sixty eight miles about,-It is about sixty eight miles I think.

515 Q-Who notified you to appear here as a witness? Counsel for the defendants objects to the question asked the witness"on the ground that it is incompetent,irrelevant and immaterial,and improper cross examination; and you can not answer the question unless you choose to do so".

516 Q-Who notified you to appear here as a witness? Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and improper cross examination;and on the ground that the witness is under no obligation to answer the question unless he feels disposed to do so.

A-I am willing to answer the question,if I am compelled to answer it.

By the Examiner,-

517 Q-Answer the question? A-Wilford Woodruff.

By Mr Kelley,-

517 Q-The President of the church here in Utah? A-Yessir
518 Q-He notified you to appear here? A-Yes sir.
519 Q-Was the notice in writing?
Counsel for the defendants objects to the question on the grounds, and for the reasons above set forth.
A-No sir it was not in writing,-not what I would call writing.
520 Q-In what shape was it? A-It was in type-writing.
521 Q-Have you that letter? A-Yes sir, I guess so, but I don't know whether I have it here or not.
522 Q-Will you see whether you have it or not? A-Yes sir
523 Q-Well,-have you the letter? A-I presume I have.
524 Q-Will you let us see it? A-I have no,-as far as I am individually concerned I have no objection to any one seeing it.
By Mr Howell,-"There is no objection to it on our part, except that it has nothing whatever, on earth, to do with this case, and therefore, we don't propose to have it here. It is here, and you are not legally compelled to produce it unless you wish to do so."
By Mr Kelley,-
525 Q-Well I insist upon it,-we insist upon the production of that letter. Will you produce that letter from Wilford Woodruff asking you to appear here as a witness? A-I have no objection to doing so, but objection is made to my doing so.
526 Q-Well never mind the objection,-do you refuse to produce it? A-I guess I will avail myself of my privilege and refuse to do so it. I will avail myself of my privilege and retain the letter.

527 Q-Do you refuse to produce the letter,-answer the question,-do you refuse to produce the letter from Wilford Woodruff to yourself asking you to appear here as a witness? A-Under the circumstances I do.
528 Q-Why? A-"Why",-what?
529 Q-Why do you refuse to produce it? A-I don't know why.
530 Q-You don't know why? A-I don't know why there should be any objection to my doing so.
531 Q-Do you have any objection personally to producing the letter? A-No sir, I don't know of any reason why I should not do so.
532 Q-Is it your refusal to do so, simply because of the instruction of counsel for you not to do so? A-Yes sir, that is the reason.
533 Q-Is that the only reason why you refuse to produce the letter? A-Yes sir.
534 Q-You refuse to produce the letter simply and solely because counsel for the defendants advises and instructs you not to produce it? A-That is the only reason.
535 Q-Who pays your expenses for coming here? A-I have paid my expenses so far I know, and I will continue to pay them so far as I know. Nobody advanced a dime or farthing to , for I came on my own responsibility, and at my own expense.
536 Q-Did you expect to pay your own expenses before you left home to come here? A-Yes sir.
537 Q-You volunteered to come here at the request of Wilford Woodruff? A-Yes sir,-I came because I was requested to come.
538 Q-And you were requested to come by Wilford Woodruff, and testify as a witness in this case? A-Yes sir,-well now you are making it a little broader than what it was intended. I was requested to come and be here ,-I don't think there was anything said about testifying.
539 Q-As a witness [illegible]

given in the letter at all. I don't think that word was used in the letter.

540 Q-Well you were requested to come and give evidence?
A-I don't think I was.

541 Q-You were requested to come and give evidence in this case? A-Yes sir.

Counsel for the defendants object to the question asked the witness on the ground that the witness is being interrogated to produce the letter in question, and that accordingly the examination now in progress is an attempt improperly to get at the contents of a written document which is not in evidence, and is not competent as evidence.

542 Q-Will you produce a letter? A-With the consent of counsel that are said to be in my possession.

543 Q-Will they not objection to that question? By Mr Hall,-"Well if I have not consented to that form, I xxxx do so now, if they will be satisfied."

By Mr Kelly,-

544 Q-Do you decline to read the contents of that letter in the witness? A-I do under the existing circumstances.

545 Q-Why do you refuse to read it? A-Too with counsel objects.

546 Q-You decline solely and only because your counsel objects to your doing so? A-Yes sir.

547 Q-And that is your reason for declining to read it? A-That is all it is.

548 Q-Will you let us see the letter out of court? A-Certainly.

549 Q-Why do you refuse to let us see it out of court? A-I decline to do so under existing circumstances.

550 Q-Then you will let us see it? A-Yes sir. If it is your wish by all means. I have no objection to your reading it and reading it too, or any other man, but under the existing circumstances I decline to do so.

551 Q-If President Woodruff consents to the letter being produced here, will you produce it?

Counsel for the defendants object to the question, the witness on the grounds that for the reasons that it is and immaterial, improper, cross examination, irrelevant and immaterial.

A-With the consent of counsel here, I will.

552 Q-You do not refuse to produce it here because it is a privileged communication from President Woodruff to you? A-No sir. In that respect it would be the same as it is now, from any other man.

553 Q-The letter that I have been calling for is a letter written by Alfred Woodruff, President of the church here in Utah, is it not? A-Yes sir.

554 Q-That is all?

By Mr Hall,-"I wish to enter into the record here that the agent for the defendants, C. A. Hall, requested President Woodruff to send word to these parties to accompany with their witness of evidence, such as the agent was not every time he took in that direction was at the request of the said agent for the defendants in this case, and further more that the defendants in this case expect to pay all costs,-legal costs or witness attending in that matter."

By Mr F. P. Kelley,-"And that statement is objected to, for the reason that it was not made by the counsel for the defendants, nor by any person that is authorized to appear as counsel, and for the further reason that it is not under oath, and is incompetent, irrelevant and immaterial as evidence."

By Mr Hall,-"Counsel for the defendants will state that the agent

for the defendants,who is himself one of them,made this statement at the suggestion,-that is at the suggestion of myself,counsel for the defendants."

By Mr. P.V. Kelley,-?And counsel for the plaintiffs renews the foregoing objection entered of record in connection.

nection with the statement of Mr Hall,and moves the Court to strike from the record both statements,as incompetent, and immaterial,and wholly at variance with and in violation of all the rules of law for taking evidence by depositions or before an Examiner or Commissioner."

By Mr Hall,-?"Then the counsel for the defendants desire to be instructed upon any point or question of law,and receive the opinion of the counsel for the plaintiffs upon it,I will speech his one ear him for it and will accept in lieu of any constitutional suggestions".

By Mr Kelley,-"Counsel for the plaintiff is willing at any time to give and assist the counsel for the gatehents with advice of the character desired,particularly as he seems to stand badly in need of such advice".

Mr Hall,-"Please enter on the record that the witness fees amounting to $6,00 for this witness are paid by the defendants."

By Mr Kelley,-"Counsel for the plaintiff objects to the witness fees of this witness for $6,00 or any other amount,being entered on the record,for the reason that the witness stated under oath that he left home without expecting payment for his attendance,and by reason of such statement he is precluded from claiming fees for his attendance."

Joseph H. Kingsbury being sworn on the part of the defendant, testified as follows,-

Direct examination by Mr Hall,-

(This witness having stated that he was of lawful age, refused to take the ordinary oath to "tell the truth, the whole truth,and nothing but the truth of the matters of and concerning the matter in controversy", it was sworn by affirmation)

Q-Where do you live at Kingsbury? A-Here.

Q-Will state where you live? A-Here in Salt Lake City.

Q-Where did you reside before coming here to Salt Lake City? A-At Nauvoo.

Q-In what state was that? A-Illinois.

Q-Before moving here you resided at Nauvoo in the state of Illinois? A-Yes sir.

Q-How long did you live at Nauvoo in the state of Illinois? A-Well I lived,-let me see,-I came up to Nauvoo I think it was in the year '40. Yes sir I think it was in the year '40 that I came to Nauvoo.

Q-When did you leave there? A-I left there in 1846.

Q-What time in the year? A-February.

Q-Get to the reporter what church you were a member of,if any,while living at Nauvoo,Illinois?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial.

A-What church was I a member of?

Q-Yes sir? A-I belonged to the church of Jesus Christ of Latter Day Saints. That was the name of the church I belonged to.

Q-Did you hold any office in that church? A-Yes sir.

Q-Well state what the office was you held in that church? A-I held the office of an high priest.

Q-During what time did you hold the office of an high priest? A-I

23 Q-Well if you can state what the year was, I would like you to do so? A-I can't remember the date exact-ly further than it was the year it was given, and that a few days after it was given,-Was not it in June,-I can't exactly not remember, but it was along about then, there I think. Yes I guess it was '42.

24 Q-Do you xxx remember what difference, there was if any, in the meanings of the revelation you [illegible]

[illegible] Counsel for the plaintiff objects to the question on the ground that it is immaterial and for a reason that it is incompetent, irrelevant and immaterial, and calls for an opinion of the witness, who is not competent to give an opinion.

A-[illegible] no difference, [illegible] I [illegible] it.

Counsel for the plaintiff objects to the answer of the witness, xxxxxxxxxxxx the reason xxxxxxxxxxxxxxxx strike the same in the record xxxxxxxxxxxxxxxx for the reasons above given.

25 Q-State the difference, if any, that is between the revelation a copy of which you made as you have stat-ed, to the revelation in the pamphlet in the [illegible] or containing a revelation of the church of Jesus Christ of Latter Day Saints at the present time, were [illegible]?

Counsel for the plaintiff objects to the question and the witness on the ground that it is incompetent, irrele-vant and immaterial, and calls for an xxxx opinion and the witness has not shown himself competent to xxxxxx give.

A-I [illegible] the same,-it is the same.

26 Q-Did you state that your it was that you had this conversation with Joseph Smith on this question of plural marriage?

By Mr Kelley,-"I make the same objection to this question, and object to it on the further ground that it is incom-petent, under the statutes of the United States, as a privileged communication between a person living and one dead."

A-I did [illegible] year.

By [illegible],-

27 Q-That year was that? A-The year of '42 I think.

28 Q-It was in '42? A-I suppose that it was in '42 that it was given,-I think it was that year.

29 Q-I will ask you to look at that book to refresh your memory, and then xx state to the reporter about what year that was? That is what year ~~you make the~~ it was that you made that copy of the revelation you have stated you made?

Counsel for the plaintiff objects to the question on the ground that it is leading, and improper, incompetent, irrele-vant and immaterial, examination.

A-I [illegible] the same year it was given. I did not notice it particularly as to the date xxxxxxxxxxxxxx and I can't say, and I can't on this very roll. At all events it was about the middle of July that I made the copy,-July of the same year it was given,,-the possibly the same day it was given,-I can't say as to that, but I don't think it was more than a day or two after it was given,,-at any rate I made the copy of it xxxx right away shortly after it was given. (Witness refers to the book handed him) I think it was in '42,-any way it was the same year it was given that I copied it, and it was not more than two or three days after it was given that I copied it.

30 Q-Well can you state more definitely about when it was given?

Counsel for the plaintiff objects to the question asked the witness

on the ground that it is ~~xxxxxxxxx~~ incompetent, irrelevant and immaterial, and leading.

A-Well as I said before it was not written more than a day or two before I copied it. I know that. Maybe it was the same day it was given that I copied it, but I cannot state precisely as to the date.

31 Q-Have you any knowledge as to when this revelation was first given?

Counsel for the plaintiff objects to the question on the ground that it is incompetent, irrelevant and immaterial, and also on the ground that it is leading.

A- Did the revelation was first given? What do you mean when the revelation was first given?

32 Q-Well I mean what I say,-can you tell about the time that revelation was first given? A-Well no, I cannot tell you about that. I know I heard about it,-that is I had heard about the revelation on plural marriage before I joined it.

33 Q-And you cannot say as to the year that occur ov?

A- No sir.

34 Q-Well, that is all I have to ask the witness at the at the present time?

Cross examination by P.P. Kelly,-

35 Q-Mr Van Cleary you became a member of the church in 1832 did you not? A-No sir, it was in January 1832.

36 Q-In January 1832 you became a member of the church? A-Yes sir that was the time.

37 Q-That was at Kirtland, Ohio I believe you stated? A-Yes sir.

38 Q-Do you remember the date you became a member of the church? A-It was the 11 twenth of January 1832

39 Q-Who baptized you? A-A man by the name of M. S.

40 Q-Did you know Bishop Whitney? A-Yes sir, I knew him before he organized the church.

41 Q- Did you know Bishop Partridge? A-Yes sir, I knew him before organized the church.

42 Q-Do you know that both them? A-Yes, sir.

43 Q-This man Partridge that you knew was never known as a bishop was it not? A-Yes sir.

44 Q-Who was the Bishop of the church at the time you became a member of it? A-Bishop Partridge was the bishop of the church at that time, and Bishop Whitney was another bishop in the church before I became a member of it.

45 Q-What was the first office you held in the church? A-The first office I held was an elder.

46 Q-That was the first office you held? A-Yes sir.

47 Q-When were you ordained an elder? A-I was ordained an elder on July 18th 1832. No I think it was in July in 1832,-I think it was that year. I mean to say it was July 28nd I was ordained an elder.

48 Q-You were a member of the church before any of the church went to Jackson County, Missouri? A-Yes sir.

49 Q-You were not? A-No sir, for some of them were there before I was a member of the ~~xxxx~~ church.

50 Q-You think some of them were in Jackson County before you were a member of the church? A-Yes sir, I think Bishop Partridge was there before I joined the church. I could not be absolutely positive of that, but I think he was there.

51 Q-Do you know anything about Bishop Partridge purchasing land in Missouri for the benefit of the church?

Counsel for the defendants objects to the question asked the witness on the ground that it is irrelevant and immeterial,and not propere cross examination.

A-No sir,I don't know anything about it,only from hearsay,and that it all I do know about it.

52 Q-All that you know about it is from hearsay? A-Yes sir,that is all that I know about it.

53 Q-Do you know anything about money being contributed for that purpose by members of the church?

Counsel for the defendants objects to the question asked the witness on the ground that it is improper cross examination,and incompetent,irrelevant and immeterial.

A-I know that this man,Bishop Whitney,told me that he sent money up there to buy lands for the church. Now that is all that I know about what he told me,and he told me that after I went with the church. After I joined the church I went with him,and lived there a while,and that is what he told me about it.

Counsel for the defendants objects to the answer of the witness,and moves the court to strike out the answer for the reasons above set forth in the objection to the question,to which it is an answer.

54 Q-Who did he say he sent it to? A-He sent it up to buy land,but I don't know who he sent it to,-I suppose though it was Bishop Partridge.

55 Q-Who was the proper person up there to send it to?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and not proper cross examination,"not pertinent to any of the issues in this case".

A-Well the proper person to send it to,-the proper person I would suppose would be the Bishop and his Counsellors. They are the proper persons I suppose.

56 Q-Well who was the Bishop and who was the counsellors A-Well Partridge was the Bishop,-that is my supposition you know,for I suppose it would besent there to him,but I don't know about that only I think that was the way it was done,for the bishop is the man that looks after matters of that kind.

57 Q-It was sent to Bishop Partridge? A-Yes sir,if it was sent at all,but I don't know that he got it.

58 Q-Well did you go to Missouri at all?A-Yes sir,-but I did not go to Jackson County.

59 Q-When did you go to Missouri? A-I went up to Missouri in 1838,but as I said I didn't go to Jackson County,-I went up to Far West.

60 Q-How long did you live there? A-I did not live there more than two or three months,for that same year, or that spring,we had to leave.

61 Q-Were you there when the revelation on tithing or on tithing and surplus property was given in 1838?

Counsel for the defendants objects to the question asked the witness on the ground that it is irrelevant and immeterial,and improper cross examination.

A-I was there in 1838,-I got up there in '38, but I don't know what month it was given,-Let me see when I got there,-yes it was in '38 in October I think,but I don't know when that revelation was given

62 Q-Were you there at the conference held in 1838? A-On the 6th of April?

63 Q-Yes sir? A-No sir.
64 Q-You were not there at Far West then on the 6th of April 1838 when the Conference was held there? A-No sir,I was not in Far West then. I did not get there until October after that.
65 Q-Well at the conference where the revelations were presented to the church,that was held in October of that year,or some where along there,-were you there at that conference?
Counsel for the defendants objects to the question asked the witness on the ground and forthe reason that it is incompetent,irrelevant and immeterial,and not proper cross examination.
A-No sir,-for that was before I got there that was held.
66 Q-Were you there at any conference that was held in 1838? A-No sir I was not at any conference in 1838
67 Q-Or ~~very~~ early in 1839? A-No sir not in '39 either for I left there in January 1839. I was obliged to go.
68 Q-Will you answer the question I asked you? A-What is the question?
69 Q-I asked you if you were there at a conference that was held in 1839? A-No sir,-no sir. I told you that I was not for I left there in January,and I had not time to attend one if there was one there.
70 Q-Were you there at one in 1837? A-No sir.
Counsel for the defendants objects to the-question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and improper cross examination.
71 Q-What was your anser to that question? A-I said I was not.
72 Q-You went from Far West to Nauvoo,as I understand you,-did you not? A-I don't know that I stated that, but that is the fact.
73 Q-You went from Far West to Nauvoo then? A-Yes sir.
74 Q-Directly? A-No sir. I stopped on the road there.
75 Q-Where at? A-Well twenty five miles from Quincy I stopped,and I stayed there probably eight or nine months,and then I went on to Nauvoo.
76 Q-And finally got to Nauvoo in 1840 or '41,-which was it? A-Well it was before that probably. I got there in the winter or fall of 1839 I guess it was,for I stopped at Quincy you know for a while before I went there. I went up to Far West I think in '40. Anyway I got there late in '39 at Nauvoo or in the beginning of '40,-but I could not say whether I got there in '39 or not for sure.
77 Q-You don't mean you were at Far West in 1840? A-No sir.
78 Q-Well that is what you said? A-Well that is wrong for I got to Far West in October 1838 and then I was obliged to leave there in 1839 the time that the most of the rest left there,and I went on down to about twenty or twenty five miles from Quincy where I stopped for eight or nine months,and then I went on to Quincy and stopped there ~~for~~ a little while and then I went on to Nauvoo,and got there probably in the latter part of '39 or the early part of '40,-I don't know which.
79 Q-Then it was a mistake when you said you went to Far West in '40? A-Yes sir,-I don't think I said that. If I did it was in answer to one of your questions,and I thought it was Nauvoo you were talking about.
80 Q-Well don't your a nswer show that you went up to Far West in 1840? A-Well if it does it does not show the truth,for I was not there in 1840.

81 Q-Please read the answer to the witness,and see what he says about it(the Examiner hereupon reads the to the witness his answer to question number 76) What do you say to that? A-I meant to say Nauvoo, and not Far West for I was not at Far West in 1840' at all. I meant to say Nauvoo,-it was just a slip.

82 Q-Well now what year did you get to Nauvoo in,-'40' or '41? A-It was in 1840.

83 Q-You are positive as to that? A-Well I am tolerably positive I say it was in 1840

84 Q-Was it in the winter? A-In the fall or winter. You might call it winter weather anyhow,because it was pretty cold when we got there"

85 Q-What was your business then,-what were you doing? A-I was travelling then.

86 Q-You were travelling then? A-Yes sir.

87 Q-Well what did you do after you got to Nauvoo? A-What did I do?

88 Q-Yes sir?-That is the question I asked you? A-Well I was employed in going up and down the river to help lighten boats.

89 Q-For how long did you continue at that? A-Well for a year or two. I was there at that for a year certainly.

90 Q-Well according to your best recollection which was it,-a year or two years? A-I guess off and on it was a couple of years that I helped to lighten boats. I think about a couple of years I was at it off and on in the boating season.

91 Q-Who were you working for? A-At that time I was working for,-let me see who it was,-I was working for the steam boat folks,and as they came in I would work for them helping lighten them,and I used to go over to Montrose and help lighten boats there also. I used to take any job that came up,and that I could get,and I was employed in that way for a year or two

,-perhaps only a year and a half,but I can't remember the names of the captains of the boats or the men I worked for.

92 Q-You were working for the the steam boat company? A-Yes sir,and at odd jobs that turned up.

93 Q-Well what company was it? A-I don;t know.

94 Q-Do you know the man's name? A-No sir,for it was for different people,for first one boat would come along and want to be lightened up,and I would help do it and then another boat would come along and I would help do it,and so it was first one after another and so I was not working steaddily all the time for one man or one boat,but took them as they came. I did not keep any record of who they were,but I knew their names at the time of course,but have forgotten them now.

95 Q-You were just a day laborer then? A-Yes sir.

96 Q-You attended church there in Nauvoo every Sunday,or nearly every Sunday did you not? A-Well I used to attend church there most of the time. I was pretty regular in my attendance of church

97 Q-Did you do any preaching then? A-No sir,I did not do much preaching then.

98 Q-Did you exercise the duties of an high priest then? A-Yes sir.

99 Q-You did? A-Yes sir.I did when it was required.

100 Q-Were you a member of the high council? A-I was in Kirtland.

101 Q-When was that? A-In 1800,-in 1838 when I left there.

102 Q-When you left there,-where? A-Kirtland.

103 Q-And you left Kirtland in 1838? A-Yes sir I thinh it was in

1838 that I left there,-that is it was in '38 I think that I left Kirtland.

104 Q-
Well I would like to have you fix the date definite-ly that you left there? A-Well I think that was the time,-I think there is no doubt of that.

105 Q-And you were a member of the high council while at Kirtland? A-Yes sir.

106 Q-Why were you not a member of the high council there A-Do you mean at Nauvoo?

107 Q-Yes sir? A-I was not a member of the high council at Nauvoo,but I was at Kirtland.

108 Q-Why were you not a member of the high council at Nauvoo,-that is the question?
Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not proper cross examination.
A-Why,what?

109 Q-Why were you not a member of the high council at Nauvoo,Illinois while there? A-Why because there was others appointed instead of me.

110 Q-You were an high priest? A-Yes sir,I was an high priest.

111 Q-And you were a member of the high council in Kirtland by virtue of your being an high priest?
Counsel for the defendants objects to the question asked the witness for the reasons and on the grounds set forth in the last preceeding question.
A-Yes sir.

112 Q-But you were now,-not a member of the high counil in Kirtland? A-No sir.

113 Q-I mean in Nauvoo? A-I mean in Nauvoo too,-I was-n't a member of the high council there,for they had appointed others in my place.

114 Q-You did not perform any of the duties of an high priest in Nauvoo? A-Not particularly. I did when I was called on,but not particularly. I was not.,-

115 Q-What were your duties in Nauvoo as an high priest?
A-I was not set apart for any particular place,only I was sent out occasionally to visit once in a while a settlement out side,but that was not gone very often either,because I was a common laboring man.

116 Q-Did you perform any marriage ceremonies? A-Where?

117 Q-Anywhere? A-Not in Nauvoo I did not there. I did not do anything of that kind in Nauvoo at all.

118 Q-Well did you do any of it about Nauvoo? A-No sir.

119 Q-During the time that you had your residence there?
A-No sir.

120 Q-Did you in Kirtland? A-No sir.

121 Q-Is it your best recollection that you did not?
A-I said I did not.

122 Q-Well now what else did you do there in Nauvoo besides your work on boats? A-I was in Josephs store there in Nauvoo for a year or two.

123 Q-Did you over preach any sermons? A-Oh yes sir.

124 Q-How many? A-I don't know how many.

125 Q-How much of your time from 1832 up to 1844 was spent in the ministry? A-From when?

126 Q-From '32 to '44? A-Well I traveled east two or three times in the eastern states,and was gone a year or two on that mission.

I27 Q-When was that? A-Well I went from Kirtland once and was gone for a while,and after I came to Nauvoo I went from there once also and was gone for a while

I28 Q-Well when was that? A-Well the time I went from Kirtland I couldn't tell you exactly the year,but I think it must have been in the year of '33,-'33 or '34,-maybe it was in '34. I can't tell you unless I get my minutes,but if I had them I think I could tell you just the time it was.

I29 Q-Well what time did you go from Nauvoo on that mission? A-I went,-I think I went in the year,-let me see,-I think I went in '34,-no I mean '44,-I think that was the year I went from Nauvoo.

I30 Q-In '44? A-Yes sir.

I31 Q-What time was it in the year you started? A-I went in the spring.

I32 Q-In the spring? A-Yes sir.

I33 Q-In what month? A-Well I don't remember what month ~~I can't say the month positively,but it was some~~

I34 ~~where along there I guess.~~ A-Some wheres along there I guess.

I35 Q-How long were you gone? A-I was gone about a year

I36 Q-You were gone about a year? A-Yes sir.

I37 Q-Where did you go to on that mission? A-I went to the eastern states.

I38 Q-To the eastern states? A-Yes sir.

I39 Q-You taught the actrine of polygamy in the eastern states while on that mission? A-No sir.

I40 Q-You did not? A-No sir.

I41 Q-Well what did you teach? A-I taught only,-I only talked the first principles of the gospel,-I did not talk polygamy at all.

I42 Q-You did not teach polygamy at all? A-No sir.

I43 Q-Why did you not do it? A-I was not instructed to teach anything but the first principles of the gospel

I44 Q-Then-if you did not teach that,what did you teach on the marriage question? A-What did I teach on the marriage question?

I45 Q-Yes sir? If you taught any thing,what was it? A-I don't know as I taught anything in particular on the marriage question?

I46 Q-You recollection is indefinite on that matter? A-I taught what was the law of the church if I taught anything,-I don't remember what I did talk on that.

I47 Q-Did you teach any body that they could have more than one wife? A-No sir.

I48 Q-You did not? A-No sir.

I49 Q-Was there any law in the church at that time that provided that a man could have more wives than one? A-Well now,-

I50 Q-Well now just answer the question,-was there any law in the church at that time that provided that a man could have more wives than one? A-No more than that revelation.

I51 Q-What revelation? A-The polygamy revelation as it is called.

I52 Q-Was that a law of the church at that time? A-That was a doctrine of the church.

I53 Q-Had it ever-been presynted to the church at that time? A-Why the doctrine and covenants had been presented to the church,and that was in it.

I54 Q-Was it in it in 1844? A-I never saw it then.

I55 Q-Was it in it in 1852? A-'52,-I can't tell you for I don't remember.

156 Q-Was it in the 1845 edition of the book of covenants A-I guess it was in the '52 edition.
157 Q-You guess it was in the edition of 1852? A-Yes sir I think it was in that edition,but I don't know anything about that.
158 Q-You don't know about that? A-No sir,not positive. I have my ideas of course,but I have no positive knowledge.
159 Q-You were an elder in the church? A-Yes sir?
160 Q-At that time? A-I was.
161 Q-And you said it was a doctrine of the church at that time? A-Yes sir. It was a doctrine as it was presented in the doctrine and covenants.
162 Q-As it was presented in the book of doctrine and covenants? A-Yes sir.
163 Q-When it was presented,or embodied in the book of doctrine and covenants,and presented to the church it became the law of the church? A-Yes sir.I suppose it did.
164 Q-And not until then? A-I suppose not.
165 Q-Well did it become a law of the church until it was presented to the church and accepted by the church? Now answer that question,yes,or no? A-Well I don't know anything about it.
166 Q-Do you pretend to say now after being an elder in the church from 1832,up to the present time,that you don't know that? A-I know it was a doctrine of the church when it was published and made public.
167 Q-Don't you know it was not published to the church until after 1852? A-Well yes sir.
168 Q-What is that? A-That is right.-It was not published until then.
169 Q-Have you not stated that it was not,-that it was published before that? A-No sir,-it was not published abroad to all the world though until 1852.
170 Q-Well was it published at all in any shape? A-Yes sir it was published to the church.
171 Q-In what manner was it published to the church? A-Verbally.
172 Q-Where? A-It was published to me verbally.
173 Q-You were the church were you,-is that what you wish to be understood as saying? A-It was spoken to me verbally by Joseph Smith himself,and if he was the church that was sufficient.
174 Q-He told you that himself? A-Yes sir.
175 Q-What did he tell you? A-He told me that it was the doctrine of the church that the Lord had revealed to him.
176 Q-He revealed it to you first did he,and then two or three days after that you copied it,-is that the way it was? A-Yes sir I expect it must have been along there some where,but I can 't tell exactly the time when it was. I can't tell the time that he told me that,or how long it was after that that I copied the revelation but it wasn't long.
177 Q-Well arex you willing to go on record here as swearing that it was revealed to Joseph Smith,and within two or three days of the time ~~thex~~ it was revealed to him,you copied it? A-I can't tell you exactly the number of days.
178 Q-Well did you copy it within ten days after it was revealed to him? A-Yes sir,I presume it was within ten days after it was revealed to him that I copied it.
179 Q-Well do you know whether or not it was within ten days after it was revealed to him,that you copied it? A-No sir,-it might have been more.

I80 Q-It might have been more than ten days? A-Yes sir, and it might have been less.
I81 Q-Are you willing to swear that you copied it within twenty days after it was revealed to him? A-Yes sir
I82 Q-That is was revealed to him within twenty days prior to the time that you copied it? A-Yes sir always
I83 Q-Are you willing to swear to that? A-Yes sir. The idea of it is just this,-
I84 Q-Well just answer my question,-do you swear that it was delivered to him within twenty days prior to the time that you made the copy of it? A-Yes sir,I swear to that right straight up and down.
I85 Q-Now tell me how you know when it was revealed to him? A-How do I know it?
I86 Q-Yes sir? A-By what he told me.
I87 Q-He told you it was revealed to him? A-Yes sir,that is what he said.
I88 Q-Well tell us how you know it was revealed to Joseph Smith? A-How do I know it?
I89 Q-Yes sir? A-Well of course I could not know anything more about that further than what he told me.
I90 Q-Did he tell you that he had just got it two or three days before you copied it? A-No sir.
I91 Q-He did not tell you that? A-No sir,he did not tell me anything about that at all.
I92 Q-Then how do you know that the revelation was delivered to you to be copied,and you made the copy of it within twenty days of the time that the revelation had been received? A-I-can't tell you.
I93 Q-That is one of the things,-the alleged facts,that when they come to be sifted down amount to just nothing,-it is like those other facts or alleged facts that you have been swearing to here,and when they come to be investigated,it turns out that they amount to just nothing at all? A-It is hard for me to testify and say I know so and so when I don't. You ask me to say that a certain thing occured between or within so many days,and I can't tell you just how many days it was or anything about that; but I do know that the revelation was a doctrine of the church.

I94 Q-In answer to my question you said you would swear that it was within twenty days of the time that it was revealed to Joseph Smith that you copied it? A-Yes sir.
I95 Q-Now sir I want you to tell how you know it was within twenty days of the time you copied that Joseph Smith received it,-just tell how you know that if you can? A-How do I know it was within twenty days?
I96 Q-Yes sir? A-Well the idea of it is this,-
I97 Q-Well never mind what the idea of it is,but just answer my question? A-What is the question?
I98 Q-How do you know that it was within twenty days prior to the time that you copied it that revelation as you say you copied it,that it had been received by Joseph Smith?
Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons that it is irrelevant and immaterial,and on the further ground"that the witness has not been permitted to answ er the question
I99 Q-Just answer the question? We will wait for an answer? A-All I know is by what he told me.

200 Q-All you know is from what he told you? A-Yes sir.
201 Q-From what who-told you? A-Joseph Smith.
202 Q-Well what did he tell you? Did he tell you that he had just received it within twenty days? A-He did not say within twenty days. He did not say anything about twenty days.
203 Q-Did he say he had received it within any particular time? A-He told me.-
204 Q-Did he tell you that he had received it within twenty days? A-No sir.

205 Q-He did not tell you that? A-No sir,he did not-tell me when he had received it. He did not tell me the day nor the hour that he had received it.
206 Q-Nor the month? A-No sir.
207 Q-Nor the year? A-No sir. He did not tell me anything about when he had received it.
208 Q-Then how do you know when he got it? A-Well I dont know when he got it,but I supposed that was when he got it.
209 Q-You supposed that was when he got it,-within twenty days of the time you copied it? A-Yes sir.
210 Q-Upon what,-what did you say you copied it within twenty days of the time the revelation was revealed to him? A-I did that from circumstances.

211 Q-You are testifying here to your conclusions then? A-No sir.
212 Q-But you say that you decided that you had copied the revelation within twenty days after it was revealed to him,-you decided or came to the conclusion that it was within that time from circumstances? A-Yes sir.
213 Q-How do you know when it was revealed to him? A-by circumstances.
214 Q-By circumstances? A-Yes sir.
215 Q-Just name your circumstances,-what are the circumstances that so irresistibly lead you to that conclusion? A-Because Bishop Whitney got it soon after it was revealed to him.
216 Q-How do you know that? A-How do I know it?
217 Q-Yes sir?,-how do you know that Bishop Whitney got it soon after it was revealed to him? A-I don't know it only as I said by circumstances.
218 Q-Well now what are the circumstances? A-The circumstances are that as soon as that revelation was written that Bishop Whitney got the revelation from Joseph Smith according to his testimony to me,and he wanted a copy of it made,and he handed it to me to make the copy of it,which I did.
219 Q-Now wait,a moment,-how do you know he got it from Joseph Smith? A-I don't know anything about it only just from what he told me himself.
220 Q-Well now do you know of your own knowledge that he got it from Joseph Smith? A-I don't know anything about it only what Bishop Whitney told me.
221 Q-You don't know of your own knowledge at all or not, whether he got it from Joseph Smith? A-No sir,only from his testimony to me.
222 Q-All you know about that is what Bishop Whitney told you? A-Yes sir.
223 Q-You don't know of your own knowledge wh ther it was revealed to Joseph Smith,one month or ten years before that time? A-No sir. Not to my knowledge I don't. I don't know any more than his testimony to me
224 Q-Whose testimony to you? A-Joseph Smith's,and he told me

that was the revelation he had received.
225 Q-What was the revelation he told you he had received
A-He said that was the revelation he had received.
226 Q-Did Joseph Smith take the original and give it to
you? A-No sir,and I did not say he did.
227 Q-Who did give it to you? A-I said Bishop Whitney
was the one ~~that~~ gave it to me.
228 Q-Well was that correct,-did he give it to you?
A-Bishop Whitney did.
229 Q-Did Joseph Smith ever take the original and pre-
sent it to you,and say"this is the original revelati-
on? A-No sir.
230 Q-Then how do you know that you had the original
revelation if he did not present it to you,and say
it was the original revelation? A-Only by the writ-
ing,-I knew it was Clayton's writing for I was fami-
liar with his writing,and I knew it was his writing.
231 Q-Did Joseph Smith ever put any revelation in your
hands,and say this is the revelation? A-No sir he
didn't put the revelation in my hands in that way,
but ~~xx~~ he said verbally that he had received the
revelation,and that that was the one.
232 Q-Did he ever tell you personally that the revelation
that Whitney had presented to you was the revelation
that he had received? A-No sir,not that particular
revelation,but he told me that he had received the
revelation.
233 Q-Then what makes you say he told you ~~that~~ the revela
tion you copied was the revelation he had received?
A-He did not tell me that,and I don't think he said
he did. I am sure,though,that that was the revela-
tion for it was in Clayton's hand writing and he did
all of Joseph's writing at that time.
236 Q-Now you say that Joseph Smith told you about the
revelation? A-Yes sir.
237 Q-When did he tell you this? A-What?
238 Q-That this was the revelation,or that he had a rev-
elation to that effect? A-The verbal one?
239 Q-Yes sir? A-I can't tell you the date.
240 Q-When did he tell you about this revelation on poly-
gamy? A-I can't give you the date sir, he told me,
but I can't tell you exactly the date.
241 Q-Well give me the month for I will let you have
thirty days to wander around in? A-Well I say I
can't tell you exactly the date.
242 Q-Can you come within ~~sixty days~~ of the date? A-I
don't know ~~but I can within sixty days of the date?~~
243 Q-Don't know that I can.-I might.
244 Q-Well take two months time-and see if you can come
within sixty days of the time.
I am not particular
about a day or two. It is no killing matter? A-If
I had time to get up my history of these things I
could tell you more about it,-I could give you more
particular dates,but I haven't got it.
245 Q-Have you a journal in which you noted down the
facts as you went along? A-No,not for every day.
246 Q-A journal that was written up within ten days of
the time,-Have you such a journal as that? A-It is
generally a journal from one day to another of partic
-ular facts and circumstances that I thought were of
importance. That is what I have.

247 Q-Have you a journal that was written prior to 1844,
the date of Joseph Smith's death? A-Yes sir I have
a journal If I could find it.

248 Q-Where is that journal? A-I don't know. I don't believe I know just where it is.
249 Q-What is the use of your saying if you had a journal you could answer these questions,when the fact appears to be you don't know whether you have a journal or not? A-Well I have not looked over my papers for a long while,for the fact is I have been knocking about so much,that I haven't had the time,or the occassion to look over my papers in a long time to see if I still have it. I expect I have it lying around some where,but at this tim & I don't know just where it is.
250 Q-I will try and find that journal and bring it up here to court where your testimony is being taken? A-I will try.
251 Q-Will you make diligent search,for it and if you find it will you bring it up here? A-Yes sir,if I can find it I will.
252 Q-I refer to a journal that was written by you before the death of Joseph Smith? A-Yes sir.
253 Q-You have it? A-I don't know. I think I have some where. I know I did have such a journal as that.
254 Q-That was written before that time? A-Before the death of Joseph Smith?
255 Q-Yes sir? A-Yes sir.
256 Q-Well now I believe you refused to take an oath here to day,did you not? A-Yes sir.
257 Q-You did? A-Yes sir.
258 Q-You affirmed? A-Yes sir.
259 Q-When has that change came about? A-"What change"?
260 Q-That you decided to affirm instead of swearing in the usual form? A-That I affirmed?
261 Q-Yes sir?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and improper cross examination.
262 Q-You have been taking oaths before this time have you not? Have you not taken oaths before this time? A-Well I have years before.
263 Q-Have you any consientious scruples against taking an oath?
Counsel for the defendants objects to the question asked the witness for the reason and on the grounds that it is incompetent,irrelevant and immeterial,and ix not proper examination.
A-I generally affirm.
264 Q-You do what? A-When I testify in anything I generally "confirm".
265 Q-Well did you make an affirmation?,-?
Counsel for the defendants objects to all this line of testimony regarding the fact that the witness affirmed instead of being sworn in the customary manner,on the ground that it is immeterial and improper cross examination.
266 Q-When you take whatever you took here to day from the Commissioner,did you understand you were confirming,or affirming to your statements?
Counsel for the defendants objects to the question asked the witness for the reason that it is irrelevant and immeterial,and not proper crossx examination.
A-Well there is a little difference I suppose,but I understood that I was affirming,-I supposed that was what I was doing.
267 Q-When you gave your evidence,have you been affirming during the last seven or eight years,all the time? A-No sir,for I haven't had any occasion to do so.

268 Q-When was the last time you affirmed, or were sworn prior to this time? A-I can't tell you.
269 Q-You can't say how long it has been? A-No sir. I don't remember when it was.
270 Q-Was it as far back as 1886? A-I can't say.
271 Q-Did you make any affidavits in 1886? A-I can't say
272 Q-I will ask you if you did not here in Salt Lake City in '86, take an oath before a Notary Public. Counsel for the defendants objects to the question asked the witness on the ground and fo rht e reason that it is incompetent, irrelevant and immaterial, and not proper cross examination.
A-Yes sir.
273 Q-In 1886 you took an oath before a Notary Public? A-Yes sir.
274 Q-Then why do you refuse to take an oath to day? Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial and improper cross examination.
A-I think I xx affirmed then. Well I don't know what it was.
275 Q-You don't know what it was? A-No sir.
276 Q-Well now what time in the day was it that you commenced to copy this revelation? A-The polygamy revelation?
277 Q-Yes sir, this revelation that you say you copied,- what time in the day was it that you commenced to copy this revelation that you say you copied? A-I can't remember what time in the day it was.
278 Q-Well was it before noon or after noon? A-I cannot tell you sir.
279 Q-You can't tell anything about what time in the day it was you commenced to copy the revelation you say you copied? A-No sir.
280 Q-I should think that such an important event as the copying of a revelation as that would have made an impression on your mind that would enable you to remember something about it with reference to the time you copied it? A-Well it is in my mind that I copied it, but I can't remember the time of day that I did it.
281 Q-What was your business at that time? A-I was living along with Bishop Whitney at that time.
282 Q-Well I asked you what was your business? A-I told you.
283 Q-Well did you not have any business at that time except to live along with somebody else? A-Well my business was that I was employed by him in performing labors in and around his premises.
284 Q-Were you the secretary of the Bishop? A-No sir.
285 Q-Were you a day laborer for the Bishop? A-I was assisting him in making improvements of one kind and another around his premises.
286 Q-You were a day laborer then? A-I was boarding with him, and assisting him.
287 Q-Just hired by the day were you not? A-Not particularly hired by the day, but I was assisting him, at whatever he wanted me to do. I helped him in any way I could, whatever he wanted me to do.
288 Q-Did you hold the office of secretary or private secretary, or any office of any kind in that way to the bishop? A-No sir. Not particularly.
289 Q-Well did you not xxx hold it particularly or not particularly? A-No sir.
290 Q-Did you have any particular work to do in the Bishops office? A-He did not have any office at that time.

291 Q-Did you have any particular business to transact in Joseph Smith's office? A-No sir.
292 Q-You did not? A-No sir,-not in his office. In Joseph Smith's store I did,for I was with him there at that time,or about that time.
293 Q-Well will you answer my question,-did you have any particular business to transact in Joseph Smith's office about that time? A-I have told you I did not
294 Q-He kept a private office did he not? A-Yes sir,
295 Q-And he also kept a private secretary?A-I expect he did.
296 Q-Don't you know he did? A-I think he did.
297 Q-Well,were you his private secretary? A-No sir.
298 Q-Who was his private secretary? A-Clayton was his private secretary.
299 Q-When? A-At the time that revelation was given.
Counsel for the defendants objects to this kind of examination on the ground that it is irrelevant,immaterial and incompetent,and not proper cross examination.
300 Q-When was Clayton his private secretary? A-Both before that revelation was given and after,it,up to the time of his death.
301 Q-Until Joseph Smith's death? A-Yes sir.
302 Q-How do you know Clayton was his private secretary? A-Well I know he was considered his secretary.
303 Q-Well are you willing to swear that Clayton was the private secretary of Joseph Smith? A-Well I can't say that he was his private secretary,but I know that he went with him continually,and everybody supposed he was his private secretary. He did Joseph's private writing.
304 Q-Well,answer the question,-Do you know that Clayton was Joseph Smith's private secretary? A-I don't know it,but he was considered to be so.
305 Q-Well now if you don't know that is enough? A-No sir,I don't know it of my own knowledge.
306 Q-Did you know a man by the name of Whitehead there at Nauvoo? A-Yes sir,I know him well.
307 Q-What was his business there? A-He was in the tithing-office under Clayton.
308 Q-Under Clayton? A-Yes sir.
309 Q-What was Clayton doing in the tithing office? A-He was the chief clerk,and Whitehead was there under him. That is Whitehead was there under Clayton and Clayton was there under Bishop Whitney's direction. That was in Nauvoo and I had the handling of the goods under Bishop Whitney's direction so I came to know them well.
310 Q-What goods do you refer to? A-Goods that were brought in under tithing.
311 Q-Did you not testify a while ago that you were assisting Bishop Whitney in making improvements around his house? A-Yes sir,but this that I am talking to you about now,transpired after Joseph Smith's death.
312 Q-Well I am not talking about that. I am asking you now about what transpired before Joseph Smith's death? A-Well I was there in the tithing office after ~~xxxxxxxxxx~~ Joseph's ~~xxxx~~ death,-I don't know half the time what you are driving at,and so I can't answer you right perhaps. If I knew what you were driving at I might do better perhaps.

313 Q-Well we will try and get our bearings again and go on? Now what were you doing there prior to Joseph Smith's death? A-Working in the store.

314 Q-What kind of work were you engaged in in the store? A-Selling goods and doing whatever there was for me to do.

315 Q-You were working there as a clerk? A-Yes sir.

316 Q-How much of them were you engaged in that capacity? A-Well perhaps for a year during the time that Bishop Whitney had charge of the goods.

317 Q-Well now what time was it that you were in the store? A-I can't say exactly, but I think perhaps that it was in the year '41 I think it must have been in '41 or '42,-some where along there.

318 Q-You think you were in the store in '41 or '42? A-Yes sir,-about there some time,-I can't say positively as to the time, but I think it must have been about that time.

319 Q-Were you employed that way in 1843? A-In '43?

320 Q-Yes sir? A-If it was in '43 I was there it must have been in the latter part of the year, but whether it was in '43 or not that I was there, I could not say

321 Q-You were there when Joseph Smith died? A-No sir, I was away when Joseph Smith died. I started away a year or six months before he died, or something like that.

322 Q-About how long did you say? A-About six months or something like that before he died I started away. That is my best recollection of the length of time, but I wouldn't say positively it was that length of time.

323 Q-Six months or a year before he died you say? A-Yes sir, something like that.

324 Q-That was when you started on that mission? A-Yes sir.

325 Q-You started on the mission in 1843? A-That was the time I came back,-in '44.

326 Q-When did you come back? A-Well soon after his death. He died I think,-well I think it was in July that I came back.

327 Q-You think you got back in July 1844 then from your mission? A-Yes sir.

328 Q-And you had been gone a year about? A-Gone where in that neighbourhood.

329 Q-Then you must have started about July 1843? A-Yes sir,-it must have been in the latter part of '43 some time I started. If I started in '43 it must have been in the latter part of the year".

330 Q-What do you mean by" the latter part of the year"? A-Well I mean it must have been in the fall of the year.

331 Q-Now was it not in the spring of "43 that you started? A-No sir.

332 Q-Did you not testify a while ago that you started early in the fall? A-No sir.

333 Q-Early in the spring I should say? A-No sir. I don't think I did.

334 Q-You don't think you did? A-I don't know"

335 Q-I asked you if it was in March or April you started and you said it was? A-Well when I come to think of it I guess it was.

336 Q-Well was it in March or April 1843 that you started east on that mission? A-Well sir I can't remember,- it was I think in '43 I started, and I got back in '44

337 Q-Well now what is your best recollection of the time in '43 that you started? A-In '43?

338 Q-Yes sir? A-Let me see. I got back after his death and that was in 1844 was it not?
339 Q-Yes sir,that is correct? A-Well I will tell you,- I think it must have been some time in August.
340 Q-In August 1842 that you left? A-Yes sir.
341 Q-That is your best revised recollection now as to the time you started? A-Yes sir.
342 Q-And you got back in July 1844? A-Yes sir.
343 Q-Well now do you recollect these dates? A-I think so.
344 Q-And the rest of the year 1843 you were working in the store up to the time you started on that mission? A-No sir I was not in the store at the time I started on that mission. I was along with Bishop Whitney, and I was building a house.
345 Q-How long did you stay with Bishop Whitney?after A-After what?
346 Q-Before you went on that mission? A-I was there until I went away.
347 Q-Well for how long before that were you with him, how many years? A-I was off and on with him all the time,more or less. I can't tell you how many years.
348 Q-Well now Mr Witness,did you stay with Bishop Whitney all the time during the year 1843 up to the time that you went away? A-Yes sir.
349 Q-You did? A-Yes sir.
350 Q-And in '41 was it the same way? A-Yes sir,I was with him in '42.
351 Q-All the time? A-Yes sir,Was right around there. I lived with him in his house part of the time, and a part of the time I lived right by the side of him,because I had a family and about that time I lost my wife,and then I went to live with him.
352 Q-Well what work you did in '42 and '43 you did for Bishop Whitney? A-Yes sir.
353 Q-And in '41 was it the same thing? A-I guess in '41 I was assisting him in the store.
354 Q-And in 1840 the time I believe you stated you got there,you did through 1841? A-No sir,not in 1840,for I was not in the store until a some time in '41. As I said I was working around here and there wherever I could get a job.
355 Q-Well you got there in 1840? A-At Nauvoo?
356 Q-Yes sir? A-Yes sir,I think so.
357 Q-And in 1841 you were in the store with Bishop Whitney? A-Yes sir,I was a part of the time.
358 Q-And in 1842 and '43 up to the time you left to go on the mission,you were with him,-that is you were with Bishop Whitney in the store? A-Yes sir.
359 Q-You worked there in the store all the time? A-Yes sir.
360 Q-Well now you have accounted for your doings,-what you were working at all the time you were in Nauvoo from the time you came there to the death of Joseph Smith in 1844? A-Yes sir.
361 Q-Well now will you tell us where the two years that you said you worked on the river comes in? A-I did not say it was two years I said it was a year,or a year and a half.
362 Q-Well tell us where the year and a half comes in? A-Well it was soon after I got up,-Well I got out of far west in the early part of '39,and I think in January,and I got to Nauvoo late in the

fall or in the winter of '39,and it was right away after that I commenced to work on the river. It was in '39 that I commenced to work on the river.

363 Q-Well you have been saying all the time it was in '40 A-Well I know very well I was on the river a part of the time in '40. It was in the fall of '39,-late in the fall,-and in '40 I think I was most of the time on the river,and in '41 I was I think most of the time with Bishop Whitney.

364 Q-And in '42 the most of the time with Bishop Whitney A-Yes sir.

365 Q-And now you have it as you want it? A-Yes sir.

366 Q-That is right? A-Yes sir. I think so.

367 Q-Well now I would like for you to-explain the year that you worked for Joseph Smith? A-I did not work for him.

368 Q-You did not work for Joseph Smith? A-No sir.

369 Q-Did you not state that you did? A-Bishop Whitney was attending to the work for him,and I worked for Bishop Whitney. I worked there in Joseph Smith's store,but I was under Bishop Whitney who had charge for Joseph Smith.

370 Q-Answer the question,-did you not say you were working a part of the time for Joseph Smith? A-No sir, it was in Joseph Smith's store I worked,but it was under Bishop Whitney,for he was the man I got my orders from. I never worked for Joseph Smith. I never worked for him at all.

371 Q-You never worked for Joseph Smith at all? A-No sir,but it was in Joseph Smith's store, I worked a part of the time. That is the way it was,-it was in Joseph Smith's store,but I was working under the Bishop Whitney.

372 Q-Did he own the store? A-Who?

373 Q-Joseph Smith? A-He owned the store but he had given Bishop Whitney the charge of it,and Bishop Whitney got me to work in the store. He got me to assist him in the store.

374 Q-Did you ever work for Joseph Smith in his private office? A-No sir.

375 Q-You never worked in Joseph Smith's private office? A-No sir,only at his house.

376 Q-Who was his private-secretary? A-His private secretary?

377 Q-Yes sir? A-Well in the first place it was Williard Richards,-at any rate that was the understanding.

378 Q-Tell if you know tell me who was the private secretary of Joseph Smith from 1840 to 1844,-that is you may state who it was,if you know of your own knowledge? A-Well I know it is said in his history, in the history of his life that Williard Richards was for a part of the time I know,and I see him there.

379 Q-Do you know anything of-your own knowledge as to who was his private secretary was during that time,-you that is do you know of your own knowledge? A-Well I say that I saw him there,-that is I saw Williard Richards there,and he was understood to be his secretary,and I saw Clayton there too. I saw them in his private office.

380 Q-Are you prepared to swear that Willard Richards was his private secretary of your own knowledge? A-That is all that I can tell you about it that I have told you.

381 Q-Can you swear that Clayton was his private secretary? A-I told you what I had to say about that.

382 Q-Well are you prepared to swear that he was his private secretary? A-I told you what I had to say,-I saw him there,and I understood that he was a part of the time.

40

383 Q-You saw him there with him a part of the time,-is that what you say? A-Yes sir.

384 Q-You also saw Brigham Young there a part of the time A-I don't know whether I ever did or not. I can't say as to that. I may have.

385 Q-And Heber C. Kimball? A-I do not know.

386 Q-And number of other people also? A-Where.

387 Q-There with Joseph Smith in his private office? A-I probably did. I don't remember of ever seeing Brigham Young or Heber C. Kimball in his office.

388 Q-You have seen Whitehead there? A-I don't remember seeing him. I don't think I ever did see him there in Joseph Smith's day. No sir I know I never did in Joseph Smith's day.

389 Q-Do you swear that Whitehead was not the private secretary of Joseph Smith from '39 or '40 up to 1844? A-I swear that I never saw him there, or knew him to be his private secretary.

390 Q-Well will you swear that he was not? A-I don't know anything about it.

391 Q-Well do you swear that he was not? A-I swear that I don't know anything about it at all, for I never knew Whitehead at all until after Joseph Smith's death

392 Q-Was he not there in the private office of Joseph Smith from 1839 to 1844 at the time of Joseph Smith's death? A-I don't swear that he was not.

393 Q-Will do you swear that he was? A-Now to my knowledge.

394 Q-Answer the question please,-you might as well answer it for I will stay with you until you do? A-What is the question?

395 Q-Do you swear that Whitehead was not there in Joseph Smith's private office from 1839 or 1840 up to 1844 A-To my knowledge I say. I don't know anything about it.

396 Q-Well do you know of your own knowledge who was Joseph Smith's private secretary,-just answer that question? A-I have answered that.

397 Q-Do you know of your own knowledge who was Joseph Smith's private secretary from '41 to '44? Now that is a question you can answer "yes", or "no", and I want you to answer it that way? A-I can't say that I know any more than I know he was with him, and that is all that I know about it any more than I know that William Richards was with him, and he was reported to be his private secretary, and Clayton was there too, and he was also-reported to be his private secretary.

398 Q-All you know about that is what some body else told you? A-Yes sir.

399 Q-Well then I move to exclude that answer as hearsay. Now who was it reported Richards as being the private secretary to Joseph Smith? Did Joseph Smith represent that he was the private secretary? A-I can't say, but I suppose it must have come from him in the first place.

400 Q-Well do you know it came from him? A-No sir, I dont know anything about that.

401 Q-I want you to understand Mr Witness I am not asking you about anything you have read in a history. I am simply asking you for your own personal knowledge and nothing else, and if you do not know of your own knowledge I want you to say so, nor do I want you to say anything about what somebody else told you, unless I ask you about what Joseph Smith said to you? A-Yes sir.

402 Q-Did Joseph Smith ever tell you that Willard Richards was his private secretary? A-No sir.
403 Q-Or that Clayton was? A-No sir.
404 Q-Now you copied that revelation you say? A-Yes sir
405 Q-And you copied the whole of it? A-Yes sir.
406 Q-Well how long did it take you? A-I can't say.
407 Q-Well according to the best of your recollection how long did it take you? A-To copy it?
408 Q-Yes sir,that is the question I asked you? A-Well I could not tell you exactly how long it was.
409 Q-Did it take you an hour to copy it? A-How many hours or how many minutes or how many seconds x I can't tell you. I cannot tell you how long it took me,but I know that I copied it just as fast as I could write it down,and I could write pretty well then.
410 Q-How many sheets of paper did you have? A-I could not say.
411 Q-Did you have more than one? A-I could not say.
412 Q-Are you willing to swear that you came to say whether you had only one sheet of paper? A-I can't say.
413 Q-Well what is your best recollection about it? A-Did you ask me if I would swear there was only one sheet of paper? X-
414 Q-Yes sir? A-Yes sir,there was more than one sheet.
415 Q-Well how much was there? A-There was as much as two large sheets,-if not more.
416 Q-Two large sheets of what kind of paper? A-Well it was the common paper used in those days.
417 Q-How large were the sheets? A-I can't say,but I suppose the usual size of paper used in those days.
418 Q-Well what kind of paper was it? A-I tell you I don't know,but I suppose it was common foolscap.
419 Q-Common foolscap? A-Yes sir,I suppose so.
420 Q-Well there was two sheets of it? A-Of the paper?
421 Q-Yes sir? A-There must have been,-for I know there was over one sheet.
422 Q-Do you mean two full sheets written on all sides,or do you mean just two pages? A-I wrote it on whatever paper it took,but I can't tell you how much paper it did take. I can't remember these things,and I don't believe any body else could.
423 Q-Well you say there was more than one sheet of paper A-Yes sir there must have been.
424 Q-How long were you at it? A-I suppose not more than an hour, Perhaps it took me an hour,and perhaps not over half an hour. I can't remember how long it took me.
425 Q-Have you ever seen the copy since? A-Yes sir.
426 Q-Where? A-Where?
427 Q-Yes sir? A-I saw it in Nauvoo?
428 Q-When? A-Soon after I wrote it.
429 Q-That is where you saw it? A-Yes sir.
430 Q-
And it was soon after you wrote-it? A-Yes sir.
431 Q-How don't you know that the copy that you wrote at that time was not a full half sheet of paper? A-A full half sheet of paper?
432 Q-Yes sir?,-That it did not cover a full sheet of foolscap paper? A-No sir.

Counsel for the defendents objects to the question asked the witness on the ground and for the reason that the witness has just stated that as well as he could recollect it covered two sheets of paper or more.

433 Q-Don't you know that you did not write quite a page of fools cap paper?
Counsel for the defendants objects to the question asked the witness on the ground and for the reasons above set forth.
434 Q-Answer that question? A-What is the question?
435 Q-Don't you know that you did not write quite a page of fools cap paper? Aint that true? A-I know I wrote just what it took to write it whatever that was. I know there was more than that, but how much there was of it I can't just say.
436 Q-Well don't you know it did not take any more than that? A-Than what?
437 Q-Than a half sheet of fools cap paper? A- I knot that whatever it took to write it on I used to write it on.
438 Q-Well did you write it on more than one page of fools cap paper? A-I say I took just what it took to write it on,-whether it was one page or whatever it was.
439 Q-And you don't know how much paper it did take to copy it on? A-No sir.
440 Q-Nor do you know how long it took you to write it? A-No sir, I can't remember for this all happened so long ago you know.
441 Q-Well did you write an hour? A-I don't know.
442 Q-Did you write more than an hour? A-I don't know that it was more than an hour.
443 Q-I did not ask you if you wrote more than an hour,- I asked you if you wrote an hour? A-Possibly I might
444 Q-Well your best judgement is that you did not write an hour is it not? A-My best judgement is that it was an hour more or less.
445 Q-Well now what is your best judgement as to ~~xxxx~~ in the time that you copied that revelation, or alleged revelation as you claim? A-The time? What time?
446 Q-The time or month of the year? A-Well it was the time that was in July.
447 Q-What ~~xxxxxxxxx~~ time in July? A-Well some where along about the middle of July.
448 Q-That was just after you came back from your mission A-No sir.
449 Q-It was not? A-No sir.
450 Q-Did you not say it was? A-No sir, for it was just before I went on my mission.
451 Q-Did you not testify a while ago that you went on your mission in August 1843, and came back in July 1844? A-Yes sir, but I ~~went~~ made that before I went on my mission.
452 Q-You did? A-Yes sir.
453 Q-And that you swear positively? A-Yes sir,-you see that was in-1843.
454 Q-And you are sure about that? A-Yes sir, I copied the revelation before I started on that mission.
455 Q-And that was in 1843? A-Yes sir.
456 Q-Well that was the law of the church was it not when you started on your mission? A-Yes sir. The law of the church did you say?
457 Q-Yes sir? A-It was not a law given to me to preach to the church.
458 Q-It was not? A-No sir.
459 Q-You were not authorized to preach that on your mission as the law of the church? A-No sir.

460 Q-Who was it given to of your own personal knowledge? A-Who was what given to?

461 Q-Who was the revelation given to,-how I mean of your own personal knowledge,-you may state who it was given to,if you know,of your personal knowledge? A-Given to?

462 Q-Yes sir,-of your own personal knowledge? A-I say here it was given to Joseph Smith.

463 Q-Do you know it was given to him of your own personal knowledge? A-No sir.

464 Q-You don't know that it was given to Joseph Smith of your own personal knowledge? A-No sir,I don't know it.

465 Q-Well that is what I assume you for? A-Well I don't know.

466 Q-Did you copied it as you did when you made copies, for in the store for Bishop Whitney? A-No sir,you not away off.

467 Q-Were you not working for Bishop Whitney in 1843? A-Yes sir,but at the time I wrote that there was no requirement in the store that required my attention at the time that I made the copy of this revelation.

468 Q-What day of the week was it? A-I could not tell you.

469 Q-Do you not know what day of the week it was? A-I can't say what day it was.

470 Q-Was it Sunday? A-I could not say.

471 Q-Was it Monday? A-I could not say what day of the week it was.

472 Q-Can you tell about what time of the day it was? A-No sir.

473 Q-You cannot tell me whether it was in the forenoon or afternoon? A-It was some where along towards noon or the day,but I cannot say whether it was in the forenoon or the afternoon,-that is something that I cannot remember at this time.

474 Q-Well you said that after you did copy on and it was in? A-Yes sir,

475 Q-How long was it after you made the copy,that you put it in Spain? A-After then.

476 Q-After that day that you made it? A-I did not see the copy after that day,but I saw the copy that same day again after I made it.

477 Q-That is you saw the copy you made that same day,and after you made it? A-Yes sir.

478 Q-Did you ever see it after that day? A-No sir.

479 Q-Do you know what became of the copy after that? A-Yes sir,I think I do. I know that Bishop Whitney had the copy,and he kept it I think.

480 Q-Till when did he keep it? A-I don't know.

481 Q-Well now do you know he had it,and kept it? A-Because he said he had it,and I know he took it from me when the copy was made. He took it ass soon as it was made.

482 Q-How long did he keep it? A-I don't know,but he told me that he brought it here to the valley with him,in those mountains. Now that is his word to me. I don't know that it is so but it is what he told me and that is all about I know about it.

483 Q-You say Bishop Whitney told you that? A-Yes sir.

484 Q-When did he tell you that? A-After we got here.

485 Q-After you came here to Utah? A-Yes sir.

486 Q-Did he ever show it to you? A-No sir,-not after we came here.

487 Q-Did he ever show it to any body? A-Well I suppose he did,but I don't know that he did.

488 Q-Well we want what youYknow,and not what you suppose If you don't know a thing,say you don't,and let that end it. Now you do not know whether he ever showed it to any anybody after he got it or not? A-No sir, only from what he said himself. He told me that he showed it to Brigham,-that is he told me so,but I don't know it,for I didn't see him show it to Brigham Young.

489 Q-You were here in 1852,were you not,-here in the City? A-Yes sir.

490 Q-Are you were here at the General Conference of the church held here in the Tabern cle in August 1852? A-Yes sir.

491 Q-Was it not a fact that at that conference,and at that time this revelation,or purported revelation, was presented to the people for adoption? A-It was held up to the world I think in 1852.

492 Q-Was it not presented here at the Conference in the Tabernacle in 1852? A-I don't recollect.

493 Q-Do I understand you to swear that you do not know that it was or not? A-I say I don't recollect about that.

494 Q-Well do you say it was not? A-I don't know anything about it.

495 Q-Do you say it was not made to the people here at that Conference in the Tabernacle,in August,-on or about 1852 here? A-No sir,I don't say that.

496 Q-Well what do you say? A-I say as I said before I don't remember.

497 Q-Don't you remember the time that Brigham Young pre sented it from the stand?

Counsel for the defendant: Objects to the question asked the witness on the ground and for the reason that it is immaterial,irrelevant and incompetent,and improper cross examination,and on the further grown that the witness has repeatedly answered that he does not recollect anything about the matter mentioned in is questioned.

498 Q-What do you say to that? A-I say I don't remember

499 Q-You attended that conference? A-I do not remember

500 Q-Has any one told you not to remember anything ex-cept what you wanted to remember? A-No sir.

501 Q-No one has told you that? A-No sir.

502 Q-Who has talked to you about your testimony in this case? A-I have been talking to you about it.

503 Q-Have you talked to President Cooper about your testimony? A-Only last night,then I spoke to him,-that is all I have said to him.

504 Q-Have you talked with Joseph F. Smith about what your testimony would be here?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and improper cross examination.

A-No sir.

505 Q-You have not? A-No sir.

506 Q-How you can recollect things that occurred back in Nauvoo,-what was said to you then in conversations, and that was away back in 1844 and '45,-and yet you cannot remember in 1852 a public meeting that was held here in your own city,nor the matter of the presentation of such an important matter as this plural wife revelation? Do you want to go on record as saying that? A-I don't remember it.

507 Q-You do not remember anything about the presentation of that alleged revelation to the church then?
A-No sir.
508 Q-You have read the sermon by Brigham Young? A-I have read some of his sermons.
509 Q-Published in the Journal of Discourses with reference to this revelation on polygamy? A-I don't remember.
510 Q-That is another of the things that you don't remember? A-I say I don't remember now whether I have read them or not.
511 Q-Have you not read the sermon in which Brigham Young said he was the man that had the only copy of the polygamy revelation on earth? A-No sir, I don't remember that.
512 Q-And that nobody else knew anything about it but him? Counsel for the defendants objects to the question asked the witness for the reason "that if there be such a sermon, it itself, is the best evidence of the fact".
A-I don't.
513 Q-Was Joseph Smith present when you copied that revelation? A-No sir.
514 Q-Was Hyrum present? A-When I copied it?
515 Q-Yes sir? A-No one but Bishop Whitney, and he was not present all the time.
516 Q-You were acquainted with the book of Doctrine and Covenants in the church prior to 1844, were you not? A-Yes sir, I was acquainted with what was published.
517 Q-Is this the book? A-I have looked at that and read it.
518 Q-You have also read the revelation in the 132d section of the book of Doctrine and Covenants on marriage, have? A-Yes sir.
519 Q-And you know what it was? A-I did at that time.
520 Q-And that is the doctrine that you taught as the law of the church when you went out preaching? A-Yes sir. Well I will say that I did not preach anything at all on the question of marriage when I was out preaching.
521 Q-Well if you had been called on to preach anything you would have to do that, wouldn't you? A-If I had been called on to say anything about it, I would of been called on to say anything about it, I do not recall reading it as it was given there, but I do not think anything about it when I was preaching. Of course while I did not teach it, if I had been called on to do so by any body I would teach it according to the laws of the land.
522 Q-According to the laws of the land? A-Yes sir.
523 Q-Why could you do that? A-Because I could not preach any thing else then.
524 Q-Well you had a church law on marriage did you not? A-I was not authorized to teach anything on marriage
525 Q-Well if any body had asked you anything about the question of marriage in your church, you would have told them that the law in your church was? A-Yes sir
526 Q-And would you not have told them it was monogamy? A-Yes sir, I believe I should.
527 Q-That is what you would have told them? A-Yes sir.
528 Q-And could that not have been true? A-I say it would have been then.
529 Q-Was there any other law of the church then at that time on the question of marriage? A-Well I don't know that there was anything said particularly about the question of marriage at that time. I don't remember that there was anything in particular said about

marriage at that time. I don't recollect that there was much said about it at that time.

550 Q-There was not? A-No sir,no more than there ever had been in speaking of marriage.-

551 Q-What do you mean by that? A-Well I mean that there was nothing more said about it then than there had been before,until just a year or so before Joseph's death,and then it began to be talked about.

552 Q-What the law of marriage was the law laid down and taught by the church in the book of doctrine and covenants,which at that time was the rule of the church? A-Yes sir.

553 Q-Do you consider a question on marriage,-a question on marriage that was decided by the General church council,-Ohio? A-Yes sir. It cites the circumstances that a person could have one or more and I don't say anything about that I can hold up my hand to anything about that at all.

554 Q-What is it? A-It says that a man should have one wife,but it does not say anything about the woman.

555 Q-I want to say that it says that a man should have one wife, it does not say anything about the woman? A-I understand it.

556 Q-Do you think that is what it? A-I think so,but I know it said it was a revelation given in Nauvoo.

557 Q-Do you recollect whether or not that was a part of the law you read out in a minister before the church? A-I will read it,sir.

558 Q-I will read it,sir,-"Whosoever shall put away his wife,and shall not kill;

and shall not steal,and will not commit adultery,and cast out
Thou shalt not lie;he that sheddeth man's blood shall
be shed;for man was made in the image of God.Thou shalt love thy wife with all thy heart,
and shalt cleave unto her,and none else;and he that looketh
on a woman to lust after her,shall deny the faith
and fall not unto the world,and is worthy to be cast out.
Thou shalt not commit adultery;and he
that committeth adultery and repents not,shall be cast out;
he and his house;for he destroyeth his own house.He that
repents not,but doeth it again,he shall not be forgiven,
but shall be cast out. Thou shalt not speak evil of thy
neighbor,nor do him any harm. For these are my laws concerning these things;for these are given in my scriptures;he that
sinneth against me and repents not,shall be cast out". You recollect that? A-Yes sir.

540 Q-You recollect that as the law of the church? A-Yes sir,that is right. That is there of course ,and I recollect it.

541 Q-Was that not a law of the church when you were a minister in the church prior to 1844? A-Yes sir that was one of the articles of the church sir,-at least I suppose it was considered so in those days. Was your's so that?

542 Q-The book was published in 1835? A-What time was that revelation given? A-That revelation was given in February 1831 did you say?

543 Q-Yes sir,that was given in February 1831 and was it the law in

[illegible] church at the time it was given? A-Certainly.

544 Q-It was the law of the church at that time you say? A-Yes sir I suppose it was,but when that revelation was given it was not printed or published.

545 Q-What is that you say? A-It was not printed publicly [illegible] for all the church ~~then for all the church~~ at the time it was given.

546 Q-Do you mean to say this was not publicly printed? A-[illegible]

547 Q-Why, do you say that it was not printed? A-The revelation was not printed at the time it was given to the church. [illegible] printed since that time. You see the [illegible] of the law [illegible] was not printed at [illegible] given to the church,-the revelations [illegible] since as fast as they were given to the church.

548 Q-[illegible] they [illegible] published? A-I don't remember [illegible] the commandments or revelations than [illegible] printed in the [illegible] at that time [illegible] given,-that is [illegible] laws were given up to that time.

549 Q-[illegible] in 1835? A-[illegible]

550 Q-[illegible] the general assembly of the church [illegible] of 1835? A-[illegible]

551 Q-[illegible] A-[illegible]

552 Q-[illegible] A-[illegible]

553 Q-[illegible] A-[illegible]

554 Q-[illegible] A-[illegible]

555 Q-[illegible] A-[illegible]

556 Q-[illegible] A-[illegible]

557 Q-[illegible]

558 Q-[illegible] they did repeal it in that manner? A-[illegible] I don't say it was or was not.

559 Q-[illegible] the law of the church were it Salt Lake City? A-[illegible] I propose to consider it one of the revelations in law of the church.

560 Q-[illegible] consider it one of the revelations in law of the church, [illegible] have been [illegible] times [illegible] 1835? A-[illegible] sir.

561 Q-[illegible] A-[illegible] sir, [illegible].

562 Q-Will [illegible] the United States [illegible] after you did you A-[illegible] for [illegible] that by revolution or government we had the privilege of having [illegible] wives.

563 Q-[illegible] commandment or revelation changing this law [illegible]? A-[illegible],yes,sir,-not of mind that law [illegible] to it,you might say.

564 Q-Added to it? A-Yes sir.

565 Q-Did the addition make a change in the law? A-[illegible]

566 Q-[illegible]? A-Yes sir. You can see for yourself that it is.

567 Q-[illegible] you are the witness. Now is it not a fact that the witness additional revelation of 1852 has changed in the law of the church regulating marriage? A-It gave a male member of the church the privilege of having more wives than one,if he was considered worthy.

568 Q-Did the,-did it give the female members the privelege of having more members than one? A-What is that,-I don't understand that question?

569 Q-Did it give the female members of the church the privelege of having more husbands than one? A-No sir I don't think it did. No sir I don't think it does.

570 Q-Don't you know that the law here in Salt Lake City will admit a woman to be sealed to two different men A-No sir.

571 Q-It will not? A-I don't think it permits her to do this. I don't think one can have more than one husband.

572 Q-Well then, she be sealed to two different ones? A-No sir, I don't see how she can be. That is not my understanding of the law. If that is the law I don't understand it, I see it, for I don't see how she could be.

573 Q-Don't you know that as a matter of fact they did do it? A-Do what?

574 Q-Seal a woman to two different men? A-No sir.

575 Q-You don't? A-No sir.

576 Q-Well then not Sinai Jacobs sealed to two different men in Juvco according to the Brigham doctrine? A-No sir.

Do you mean to say that she was not, or you don't know anything about it? A-I don't know anything about that at all. I think it happened I don't know anything about it. That never occurred to my knowledge that I know anything about.

577 Q-I will read from section sixty five, page one three one, one hundred and ninety two of exhibit "A", I quote,-"And again I say unto you that whoso teaches this to have, is not ordained of God, for marriage is ordained of God unto man;therefore, it is lawful that he should have but one wife, and that they twain shall be one flesh, and all this that the earth might answer the end of its creation;and that it might be filled with the measure of man, according to his creation before the world was made". Now do you consider that as a part of the doctrine of the church prior to 1904? A-Yes sir.

578 Q-You recognize that as a part of the doctrine of the church prior to 1904? A-Yes sir,that is all right.

579 Q-Does that permit a man to have two wives? A-It don't say so does it?

580 Q-I will read it to you again,and then you may answer it. "And again I say unto you that whoso forbiddeth to marry is not ordained of God,for marriage is ordained of God unto man;wherefore it is lawful that he should have one wife,and they twain shall be one flesh,and all this that the earth might answer the end of its creation;and that it might be filled with the measure of man,according to his creation before the world was made". What do you say to that? A-It is lawful that he should or may have one wife,that is correct.

581 Q-Would it be lawful for him to have two wives? A-No sir, No it would not.

582 Q-Would it be lawful for a man to have more than one wife from 1852 down until the time that Uncle Sam got after you gentlemen for having more than one wife? A-We believe it was the privelege of a man that was considered to be an able and true man,-it was his privelege to have more than one,if he chose to avail himself of his privelege. There was no force used about it,-it was optional with him, but he could have another woman sealed to him for eternity if he saw fit to do so.

584 Q-What about time as well as eternity? A-And time too.

585 Q-Sealed to him for time and eternity? A-Yes sir, time and eternity.

586 Q-That is the law of the church? A-No sir,that was the law of the church.

587 Q-But it is not the law ~~xxxxxxxxxxx~~ now? A-No sir

588 Q-Uncle Sam got after you,and made you drop it as a law of the church? A-No sir,I don't know that that was the ~~xxxxxxxxxxxx~~ cause,but you can have it that way if you want it that way.

589 Q-Is it not a law of the church ~~xxxx~~ now and here, that you can never enjoy the hereafter unless you have two,-have two wives? A-No sir.

Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons that it is incompetent,irrelevant and immaterial,and improper cross examination,and not pertinent to any of the issues in this case.

590 Q-Was it not the doctrine of the church here in Salt Lake City,preached by Brigham Young,and Heber C. Kimball,and by all the Twelve Apostles of this church here in the Tabernacle in 1852,in the month of August and on the same day all of them? A-I don't know,-

591 Q-Or nearly all of them? A-What is it you want to know?

592 Q-Did they not preach in the Tabernacle on a day in August 1852 that a man could not be exalted in the hereafter,unless he complied with the revelation on polygamy,and took more than one wife? A-Not to my knowledge.

593 Q-You never read that? A-~~xxx~~ No sir.

594 Q-You did not read those sermons on that day? A-No sir.

595 Q-You don't know anything about that? A-I did not hear that.

596 Q-If that is the doctrine of the church,you don't know what the doctrine of the church is,do you? A-If that is not the doctrine of the church,did you say?

597 Q-If that is the doctrine of the church I said,that a man must have more than one wife,-two wives,-in order to be exalted in the hereafter,-if that is the doctrine of the church,you do not know anything about it do you? A-Well the idea of it is this,I may have heard that.

598 Q-You never heard that? A-No sir, I never heard that preach that in the Tabernacle.

599 Q-Do you say that they did not preach it? A-No sir, I don't say they didn't preach it. They may have done so,but if they did I didn't hear it.

600 Q-Do you say it was not a law of the church,and taught by the Presidency of the church from that time forth,that a man in order to be exalted in the hereafter,-in eternity,-must have two wives or more? A-No sir for I heard it preached from the stand that a man could ~~xxxx~~ be exalted in eternity with one wife.

601 Q-Answer my question,-have you not also heard it preached from the stand that a man could not be exalted unless he had more ~~xxxx~~ than one wife? A-No sir.

602 Q-Who preaching that he could be exalted in the hereafter with one wife,-just name your man? A-Orson Pratt.

603 Q-When was it he preached that? A-Just before his death"

604 Q-When,-when was it he preached that? A-It was just before his death,-I don't know when.

605 Q-Where was it he preached that? A-In the Tabernacle just before it was torn down.

606 Q-What year was that? A-I don't know,-it wasn't long before his death.

607 Q-You don't know what year it was? A-No sir.
608 Q-You say it was Orson Pratt preached that? A-Yes sir.
609 Q-Did you come within two years of the time you heard him preach in the Tabernacle that a man could be sealed in eternity with only one wife? A-No sir.
610 Q-Was it before 1850? A-No sir, It was after that.

611 Q-Did not Orson Pratt preach in August 1852 that a man could be sealed in the hereafter, unless he had more lives than one? A-I don't know.
612 Q-Will you do it? A-I may very well do it, but I don't know [illegible] or not.
613 Q-Did he not teach that God in revelation composed of the spirits of children of the earth born in [illegible] eternity,-an children so born of more than two lives [illegible]? A-I don't know anything about it [illegible].
614 Q-You don't remember anything about it? A-No sir.
615 Q-You are [illegible]? A-No sir.
616 Q-Did you not attend the meeting? A-No sir.
617 Q-[illegible] the [illegible] of the Saints [illegible]? A-[illegible] Salt Lake [illegible]?
618 Q-[illegible]? A-[illegible] above.
619 Q-[illegible] to Salt Lake City in August 1852? A-[illegible] I believe that I did. I [illegible] [illegible].
620 Q-[illegible] A-I did [illegible] to-[illegible] that [illegible] in [illegible] Lake [illegible] A-No sir I did not [illegible] [illegible] I [illegible] you that I was not [illegible] [illegible]
621 Q-[illegible] A-[illegible] I do not know that I was not [illegible] [illegible] of the country at that [illegible] [illegible] I [illegible] [illegible] [illegible] I [illegible] [illegible] [illegible] [illegible].
622 Q-Was it a common thing to be sealed in those days [illegible] A-[illegible] Yes sir.
623 Q-[illegible] A-[illegible] sir.
624 Q-You were not married at that time? A-No sir.
624 Q-When did you marry? A-[illegible] in February?
625 Q-Who married you? A-Joseph Smith.
626 Q-Did you marry Joseph Smith? A-Yes sir.
627 Q-Where were you married? A-In Ohio at Kirtland.
628 Q-Was it a bona fide marriage? A-Just the same as any other marriage, -just the same as any other marriage at that time.
629 Q-Was it a marriage? A-Yes sir.
630 Q-Was it a marriage authorized under the statutes of Ohio? A-[illegible] I don't know.
631 Q-Was it not the ceremony adopted by the church? A-[illegible] sir.
632 Q-[illegible] a man is married not? A-I want an [illegible] a license.
633 Q-You did, and got a license? A-Yes sir.
634 Q-Where? A-Down the County court.
635 Q-Will you tell us why you did not get a license here? A-Of course they [illegible], but they could have it and not [illegible] in the church meeting without a license at the [illegible] I did not do it that way, for I went and got a license.

636 Q-You could be married without a license by having it published in the church for three weeks? A-Yessir
637 Q-Could any body that was not a member of the church do that? A-No sir.
638 Q-They could not do that? A-No sir,I don't suppose they could.
639 Q-Well did you a member of the church? A-Yes sir.
640 Q-What was her name? A-Caroline Whitney.
641 Q-Bishop Whitney's daughter? A-Yes sir.
642 Q-And you were married according to the laws of Ohio? A-Yes sir,I suppose so.
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and not proper cross examination,and moves the court to strike it from the record and the answer thereto,for the same reasons.

643 Q-Well you say you were married according to the laws of the church? A-I suppose so. I got a lawful wife and that was sufficient,and I was satisfied that I was married according to the laws of the church,and the laws of the land and that is enough.
644 Q-Well were you not married according to the laws of the church,of which you were at that time a member, according to the manner in which the marriage ceremony and the rules regulating marriage are set out in this book here(Exhibit E)? A-He married me I suppose just as any other preacher would marry me"
XXX
645 Q-He repeated to you a ceremony,-the ceremony ordered or fixed by the church,didn't he? A-I can't tell you
646 Q-Wasn't it the ceremony provided by the church? A-I say I can't tell you whether it was the ceremony provided by the church or not.
647 Q-You knew there was a ceremony provided by the church did you not? A-I knew there was,but I cannot tell you whether I knew it at that time or not.
648 Q-You recollect the ceremony in substance when I read it to you do you not? A-I can't tell you the ceremony he used I tell you.
649 Q-Well I will read to you the ceremony provided by the church to refresh your ~~memory~~ recollection? A-I know how that reads.
650 Q-You know how that reads? A-Yes sir. In substance I know how it reads.
651 Q-Well I will read it to you,-"Marriage should be celebrated with prayer and thanksgiving;and at the solemnization,the persons to be married,standing together,the man on the right,and the woman on the left ,shall be addressed by the person officiating as he shall be directed by the Holy Spirit;and if there be no legal objections,he shall say,calling each by their names;"you both mutally agree to be each others companions,husband and wife,observing the legal rights belonging to this condition;that is,keeping yourselves wholly for each other,and from all others during your lives". ~~in the name of the Lord Jesus Christ,and by virtue of the laws of the country~~ And when they have answered "yes",he shall pronounce them "husband and wife",in the name of the Lord Jesus Christ,and by virtue of the laws of the country,and authoritu vested in him, "May God add his blessings and keep you to fulfill your covenants,from honceforth and for ever. Amen". I will ask you if that in substance was not repeated to you by the minister who married you? A-I can't remember sir.
652 Q-Can you remember it in substance?-"You both ~~mutu~~ mutually agree to be each others companion,husband and wife,observing the legal rights belonging to

this condition,that is keeping yourselves wholly for each other,and from all others during your lives"? A-No sir,it is not exactly that way.

653 Q-It was not exactly in that way? A-No sir.

654 Q-Wherein did he change it? A-He married my wife to me.

655 Q-Well he married you to your wife too,didn't he? A-Yes sir and after that he married me to her. He took one person at a time,and married us in that way That says there"mutually agree",-it was as it is in substance there.

656 Q-Did he repeat it to you in this way, calling you each by name? A-Yes sir,he called me by my name.

657 Q-He said"do you take this woman to be yout lawful wedded wife,and keep yourself wholly for xxx her,and none other,so long as life shall last"? Did he say in substance that? A-No sir.

658 Q-Well did he say that to your wife? A-I don't know what he said.

659 Q-You don't know what was said? A-I can't remember.

660 Q-Well do you know then,that he did not say to you what I have stated,substantially? A-I can't remember what it was he said,but it was something like that.

661 Q-Did xx he say the same ~~thing~~ "thing" to her that he said you? A-Well it was xxxxx something similiar,-some thing the same,but I can't say exactly what it was.

662 Q-That is you want to say that xxx you were not bound or married to one woman for all time,-when you were married in 1837 you were not married to one woman for all time,-that is what you want to say,-Is that what I understand you to say? A-I was married at the time,of course.

663 Q=For time? A-Yes sir.

664 Q-And you did not have the privelege of taking another woman so long as that one should live"? A-I can't say,-there was nothing said about that.

665 Q-Well you did not have the privelege under the laws of the church,or under the laws of the-land either to take another woman so long as that one lived,did you? A-We never heard anything of the kind in those days at all.

666 Q-You did not have any privelege under the laws of the church up to 1844 nor under the laws of the United States or the laws of the state of Ohio up to 1844 ,to take another did you? A-No sir,no man had given me that privelege.

667 Q-You did not have that privelege by law did you? A-I had no such a privelege then. I did not consider that you had such a privelege xxx at that time at all sir. I did not say that I considered I had such a privelege at that time at all.

668 Q-How many times have you been married silce 1844? A-Well sir I have had three wives.

669 Q-All living at the same time? A-No sir.

670 Q-Were any two of them living at the same time? A-Any two of them?

671 Q-Yes sir? A-Yes sir.

672 Q-How many have you now? A-One.

673 Q-For how long has that condition of affairs continued?

By Mr Cabell,-"That is objected to for the reason that it is incompetent,irrelevant and immeterial,and improper cross examination,and counsel for the defendants now moves the court to strike out all of this examination on this subject,and the witness is now instructed that he

is under no obligation to answer a question that would tend to criminate him in any other court".
By Mr Kelley,-"If he claims that privelege I will cease in a minute. All I want him to do is to claim that privelege and this examination will cease forthwith.
A- I will not answer the question.
674 Q-I will ask you now what minister of the Church of Jesus Christ of Latter Day Saints, prior to 1844, in Nauvoo, or in any other place, you have heard preach the doctrine of polygamy from the pulpit? A-I don't remember hearing any doctrine of polygamy taught I mean preached,-in Nauvoo at all,-. That is preached from the pulpit.
675 Q-Or in any other place prior to that time?,-Nauvoo or any other place, county or city? or state? A-Why yes it has been preached here.
676 Q-Before 1844 I said? A-Ohno, no, no,-not here before that time for we were not here then. I had not heard it preached in 1844 on the stand at all.
677 Q-Who did you hear preach it anywhere in 1844,-any where at all? A-I heard it,-did you say in 1844?
678 Q-Yes sir? A-Bishop Whitney gave me to understand that was the law.
679 Q-I asked you who you heard preach it anywhere in 1844? A-In the pulpit.
680 Q-Yes sir, or from the stand? A-I never heard any one preach it from the stand prior to 1844. The only way that I heard of it at all up to that time was by conversation.
681 Q-Did you ever hear any one preach it from the stand or in a private gathering up to that time? A-No sir
682 Q-I refer to the time beofre the death of Joseph Smith? A-No sir, I did not hear it preached from the pulpit before his death, but I heard it in private conversations you know as I stated, Bi shop Whitney told me of it before Joseph died.
683 Q-You say you did not hear it preached from the stand prior to the death of Jose ph Smith in 1844? Not I will ask you if you heard it preached or taught to any considerable number of people privately before the death of Joseph Smith? A-No sir
684 Q-Did you ever hear any body teach it to a number of persons either publicly or privately before the death of Joseph Smith? A-Only what Joseph Smith taught me, and what Bishop Whitney taught me?.
685 Q-What did he teach you? A-He said we had the privelege of having more than one wife.
686 Q-Is that all that he said? A-That was the understan-ding.
687 Q-I am not asking you for the understanding,-I am asking you for what he said? A-No sir, he said more, but I can't tell you now all that he did say
688 Q-You do not remember anything more that he said? A-No sir.
689 Q-Can you tell anything else that he said? A-He said it was the privelege of an able man to have more wives than one. I remember that he siad that.
690 Q-Will you swear to that? A-I affirm that.
691 Q-Joseph Smith told you that? AA-Yes sir.
692 Q-You will not swear to that, but you will affirm it?

A-Yes sir.
693 QYTo your mind there is a difference between swearing and affirmation? A-Yes sir, I suppose there is.

694 Q-Did you not swear to this in 1886? A-I did not swear,-when I took an oath I affirmed.
695 Q-Do you consider there is a difference between an oath and an affirmation? A-Yes sir.
696 Q-What is the difference? A-There is a little difference.
697 Q-You consider then,that there is a little difference A-Yes sir.
698 Q-An oath is more binding than an affirmation? A-It is more binding than an affirmation,Well I don't know that it is more binding it is ~~xxxxxxxxxxxxxxxx~~ considered to be more serious.
699 Q-An oath is considered to be more serious than an affirmation? A-Yes sir. I don't know what you would call it,but I generally affirm.
700 Q-You do that because your understanding is that a man cannot be convicted of perjury where he affirms and does not swear? A-I don't know anything about that.
701 Q-And he can be when he is sworn? A-I suppose that is true. I suppose it is true.
702 Q-And that is the reason you do not take an oath but affirm instead of taking ~~a~~ the oath? A-Well I havent thought about that.
703 Q-You consider there is more solemnity about an oath than an affirmation? A-Well I consider so.
704 Q-You consider an oath is more binding? A-Well I consider it is more binding.
705 Q-And for that reason you affirm? A-I affirm because I would rather affirm sir.
706 Q-Then will you affirm now sir that Joseph Smith did not state anything more to you than you have stated here on the witness stand? A-No sir.
707 Q-You won't do that? A-No sir.
708 Q-Did he say more? A-Yes sir.
709 Q-Well what more did he say to- you? A-I don't know that I am obliged to tell you that sir.
710 Q-Well,did he say anything more? A-Yes sir.
711 Q-Well what did he say? A-I don't know that I am obliged to say.
712 Q-Well I think you will learn that you are and willbe compelled to tell,for I think we have a right to know just what he said to you and all that he said to you? A-I don't think so.
713 Q-I want to know just what he said to you? A-I have told you about all that he said. I have stated in substance about all that he said to me.
714 Q-You have told here substantially all that Joseph Smith ever told you,or said to you, about the practice of polygamy,have you? A-Yes sir,-he said that a man had that privelege if he was considered worthy
715 Q-Now did he tell you that you could have more wives than one,or that you could have women sealed to-you? A-He said we could have women sealed to us for time and eternity.
716 Q-Did he ever use the word "wives"? A-I can't exactly say,but I presume it is likely hedid.
717 Q-Well are you willing to swear or affirm here that he did,or did not? A-I say I presume he did.
718 Q-I asked you if you were willing to swear ~~xxxxxx~~ or affirm here that he used the word "wives"? A-It must have been "wives". He said that a man could have more wives than one,and of course he must have

used the word "wives".
719 Q-Well are you willing to swear that he used that language? A-I am affirming.
720 Q-You do not forget that you are affirming? A-No sir
721 Q-Well are you willing to affirm that he used that language? A-That is the understandingof it sir.
722 Q-Is that what he said? A-Yes sir,that is what he said.
723 Q-Well what was it he said? A-That a man could have more wives than one.
724 Q-Did he say you could have them as wives,or did he say that you coul d have more women than one sealed to you? A-He said we could have both. I understood it both ways,-I understood that it was both ways.
725 Q-Well did he say it. A-I don't want your understanding of it,but I do want what he said? A-I say I understood it that way.
726 Q-Well did he say it that way? A-That is the under standing I got from him,that a man could have more wives than one,and he could have them sealed to him.
727 Q-Did he say you could have more wives than one for time and eternity? A-Yes sir.
728 Q-That is the language he used? A-Yes sir,that is the understanding I got of it.
729 Q-That is the understanding you got? A-Yes sir.
730 Q-But you do not say he used that language? A-No sir. I can't say that is the exact language he used, but I know that is the understanding I got of it, and I presume he did.
731 Q-Well do you say he did? A-Well I could not understand it any other way.
732 Q-Well did you marry more wives than one then? A-No sir.
733 Q-You did not? A-No sir.
734 Q-Why not? A-Because I did not want any then.
735 Q-Well how long was it before you married any other wife? A-I don't know that it is any of your business when I did.
736 Q-Well how long was it after that before you married any other woman? A-I don't know that it is any concern of yours when I did.
737 Q-Come answer the question for we want to know?
738 A-Well I don't know that I can tell you that.
Q-Well am I to understand that you decline to tell it? A-I do decline to do so unless I am compelled to do so.
739 Q-Do you decline to answer the question because it would tend to criminate you? A-Well sir that is my own personal business,and is no concern of yours.
740 Q-Do you decline to answer the question because it would tend to criminate you? A-No sir.
741 Q-Then why do you decline to answer the question?
A-Because it is none of your usiness.
742 Q-Well I will insist upon the answer? A-What is the question?
743 Q-How long was it before you were married any other woman after Joseph Smith told you that?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,and irrelevant and immeterial,and not cross examination.
A-Well let me see it was,-My first wife died in October,and I married,-I can't say exactly,but it was some year or two afterwards that I married

another woman, but I can't tell you exactly what the date of that was until I go and see the record of my marriage.

744 Q-That is the time you were married the second time? A-Yes sir.

745 Q-That marriage was performed after your first wife died? A-Yes sir.

746 Q-Well how long was it after your ~~second wife was~~ married your second wife, that you took another wife, during the life of the wife you were then living with A-My first wife do you mean?

747 Q-No I said your second wife, ~~that you took another~~ and while she, your second wife was still living? How long was it after you married the second wife that you took another wife? A-I think it was perhaps six months I don't remember exactly, but I think it was ~~six months~~ about six months.

748 Q-When you lived in Illinois? A-Yes sir.

749 Q-Did you have two wives living at the same time while you were living at Nauvoo, Illinois? A-Yes sir. That was before I left Nauvoo.

750 Q-You had two wives living at the same time at Nauvoo A-Yes sir.

75I Q-Who married you to them? A-I think it was Heber C. Kimball.

752 Q-Where were you married to them? A-I believe it was in the temple at Nauvoo.

753 Q-In what year? A-I can't state the year.

754 Q-Well cannot you state about the year it was? A-It was just before we came away a short time. I believe it was in I846 when we left there.

755 Q-It was in I846 that you were married to these women A-I believe so,-either '45 or '46,-some where along there. I can't say what year it was that I married them but it was either in '45 or '46.

756 Q-What was the ceremony that was used? A-For time and for eternity.

757 Q-You were married to them for time and eternity? A-Yes sir.

758 Q-Was that the same ceremony that was used,-I believe you stated that the first time you were married was by Joseph Smith? A-Yes sir.

759 Q-And that was at Kirtland, Ohio? A-Yes sir, that was the time I was married ~~then~~ first.

760 Q-Well was the ceremony used this time that you were married by Heber C. Kimball in the temple at Nauvoo, Illinois in '~~45~~ I845 or '46,-was the same ceremony used on that occasion that had been employed by Joseph Smith on the occasion of your first marriage marriage at Kirtland, Ohio? A-No sir.

76I Q-What was the difference? A-It was not for eternity at all then.

762 Q-Then there was a change in the marriage ceremony was there not? A-Yes sir.

763 Q-What was the change? A-We were married for eternity as well as time the last time.

764 Q-The marriage ceremony was changed and you were married for eternity the last time? A-Yes sir,-that was added on.

765 Q-That is it was extended by the addition of that? A-Yes sir.

766 Q-It was broadened out by that addition? A-Yes sir

767 Q-Spread out? A-Yes sir, there was more added to it

~~And that is your understanding of the polygamy doctrine~~

768 Q-And that is your understanding of the polygamy doctrine,-that it is just an extension of the polygamy doctrine of the church,-

that is that the doctrine of the church in reference to marriage had been extended by the addition of this to it? A-Yes sir" Of course.

769 Q-That is the old law of the church before this was injected into it allowed ~~allowed~~ a man to have but one wife,but after this came he was permitted to have from one wife,up to as many as many as Solomon had? A-I don't know about that,but he might have more than one.

770 Q-Well there is no limit is there to the number? A-Well I don't know anything about that.

Counsel for the defendants objects to the question asked the witness on this point on the ground that it is incompetent,irrelevant and immaterial,and not proper cross examination,and moves the court to strike out all the evidence given by the witness on this point for the same reasons.

771 Q-Was the ceremony that you had repeated to you at the time you were married in the temple at Nauvoo,the ceremony that I read to you here to day from the book of Doctrine and Covenants,section one hundred and one,page two hundred and fifty one,of the edition of 1885? A-That which you have just read?

772 Q-Yes sir? A-No sir.

773 Q-It was not the same ceremony? A-No sir,it was a different ceremony.

774 Q-Can you repeat the ceremony? A-It was for time and eternity,-I can't repeat it all. I can't repeat it all,but that was the substance of it.

775 Q-That is the substance of it? A-Yes sir.

776 Q-Well what is the substance of it? A-That is that the man and the woman stands up together,and the minister says I pronounce you man and wife.

777 Q-The man and the woman stands up together,and the minister says "I pronounce you man and wife for time and eternity?" A-Well that is a part of it.

778 Q- Have you a book that contains that ceremony? A-No sir.

779 Q-Is it printed any where? A-Not that I know of.

780 Q-Did you take an oath at the time you were married the second time in the temple at Nauvoo? A-Yes sir I presume so.

781 Q-What was it,-what was the oath? A-Why I presume it was the same as I took the first time,-I presume it was the same as I did the other time.

782 Q-It was the same as you took the first time? A-I presume so.

783 Q-Well did you take an oath outside of that? A-Yes-sir. I don't know.

Counsel for the defendants objects to the question asked the witness on the ground and and for the reason that it is incompetent,irrelevant and immaterial,and not proper cross examination.

784 Q-Do you know whether you took an oath outside of the marriage ceremony or not?

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that it is incompetent,irrelevant and immaterial,and not proper cross examination.

785 Q-Did you have to take an oath outside of the marriage ceremony? A-I don't know that I did.

786 Q-You went through the endowments there? A-Yes sir.

787 Q-There at Nauvoo? A-Yes sir.

788 Q-At the time of your marriage? A-No sir.

789 Q-Well about that time? A-No sir.

By Mr Cabell,-"All of the questions are objected to on the ground that they are incompetent,irrelevant and immeterial,and not proper cross examination.

By Mr Kelley,-

790 Q-Well was it not about the same time? A-Yes sir,

791 Q-The same year? A-Yes sir.

792 Q-That you took the endowments? A-Yes sir.

793 Q-Was it before or after you were married to the second wife? A-Before.

794 Q-At the time that you went through the endowments you took an oath did you not?

Counsel for the defendants objects to the question on the ground that it is incompetent,irrelevant and immeterial, and not proper cross examination.

A-Yes sir.

795 Q-What was that oath?

Counsel for the defendants objects to the question on the ground and for the reasons stated above.

A-I promised to be obedient to the laws and revelations of the church.

796 Q-Did you not promise to be obedient to the officers of the church too ? A-To the rules and regulations of the church?

797 Q-And to the officers also? A-Well,if they were included in the rules and regulations and articles of the church I was of course. It was the rules and regulations and articles of the church that I was to be obedient to,as they were recorded as I remember it.

798 Q-And did you not agree to obey the counsels and commands of the church,and its officers?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immeterial,and not proper cross examination,and not pertinent to any of the issues in this case.

A-It was the rules and regulations of the church,and of course that meant the laws of the church.

799 Q-What were those rules and regulations outside of what is contained in this book(exhibit E)that I now hold in my hand,in,-that is what other book were they in,if any,or where were they to be found? A-Well I don't know that there was anything in particular. We were to be true to all the rules and regulations of the church and be faithful in all our dealings and doings,one with another,etc.

800 Q-Do you find in your book of Doctrine and Covenants, -that is the book that your church published,-any rules for the performance of the marriage ceremony under which you were married on that occasion in the temple? A-At Nauvoo?

801 Q-Yes sir? A-I don't remember that I do.

802 Q-Can you find it in this book(exhibit E)? A-I don't know"

803 Q-Did you find it there in substance? A-I don't remember.

804 Q-Don't you know it is not there? A-I don't remember seeing it there.

805 Q-Don't you know it is not there? A-I say I don't remember seeing it there,

806 Q-You have read the book of Doctrine and Covenants? A-Yes sir.

807 Q-Did you ever read it in there? A-I don't remember

Counsel for the defendants objects to the repetition of the question

asked the witness for the reasons that the witness has repeatedly answered that he does not ~~know~~ remember.

808 Q-You say you took the endowments? A-Yes sir.

809 Q-Have you been through the endowments more than once? A-More than once?

810 Q-Yes sir? A-Yes sir,I have gone through,and saw others go through at the same time.

811 Q-And you have been through yourself? A-Yes sir.

812 Q-More than once I asked you? A-Yes sir.

813 Q-You were baptized first in 1882? A-Yes sir.

814 Q-When wer you baptized the first time? A-That was the first time.

815 Q-Were you ever baptized after that first time? A-Yes sir.

817 Q-When was the next time you were baptized? A-When I came out here to Utah. Q-,-you mean for myself, and not for the dead I suppose.

818 Q-I mean for yourself? A-Well I was baptized the next time when I came out here.

819 Q-What were you baptized for the first time? A-If you do-not know I can tell you. I thought you were posted in the law,but I see you ain't as well posted as you ought to be,so I can tell you it was for remission of sins.

820 Q-Well what were you baptized for the next time? A-For the same thing,. I was re-baptized the second time for the remission of ~~sx~~ sins.

821 Q-You were the second time baptized for the remission of your sins? A-Yes sir.

822 Q-What time was that? A-Well I got out here in the year of '47 in the fall of '47 I think it was. Now I would like to know if all these questions are questions that are necessary to be asked,about the personality of all my family ~~xxxxxx~~ concerns. I don't think that I should be asked about all these things,for I can't see what they have to do with this case.

Counsel for the defendants objects to all the questions asked the witness on the ground that they are largely incompetent, and irrelevant and wholly immaterial,and are not cross examination,and are not pertinent to any of the issues in this case.-

By Mr Hall,-"I want to inform the witness that he is under no obligation to reveal any of the secrets that he has taken oath not to reveal,no more than ~~x~~ if he was an Odd-fellow or Mason or belonged to any or her secret order and had taken an oath not to reveal the secrets that he would not in that way".

By Mr Kelley,-

823 Q-You said in your examination a while ago that you had been a member of the church sine 1882? A-Yes sir

824 Q-That was the time you first became a member of the church? A-Yes sir,that was the time I joined the church.

825 Q-You were then,-How does it happen that you had to be baptized into the church again in 1847? A-I had not ~~xx~~ to be baptized into it again,for I was in the church already.

826 Q-Well how did it happen that you were baptized the second time? A-When I came here I was baptized again ,renewing ~~xx~~ covenants,with God,and also for the remission of my sins that I might have committed taking this tedious journey out here,through all these mountains and canyons,-we thought it might do us good to-be baptized again.

827 Q-You had not broken your covenants that

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827 Q-You had not broken your covenants that

baptized? A-No sir.
828 Q-None of the covenants that you had assumed at that time were broken? A-No sir.
829 Q-And yet you were again baptized here in Utah in 1847? A-Yes sir.
830 Q-You had not broken the church laws? A-No sir.
831 Q-None of them? A-No-sir.
832 Q-Then why the necessity of being baptized again? A-Well that was my private feelings that I should be, and while it was not a matter of necessity that I should be baptized again, still I felt that it would do no harm to be baptized again.
833 Q-That was the public teaching from the stand was it not? A-Yes sir it was considered that every one that came out here should be baptized again.
834 Q-Now in 1832 you were baptized into the church, and don't the new testament teach that at the time of your baptism, when you are ~~baptizex~~ so baptized that you are baptized into Christ? A-Yes sir. It does so I understand it to teach.
835 Q-Did you get out of Christ by coming across the plains and through the mountains, and had to be baptized into-Christ again?
Counsel for the defendants objects to all the questions asked the witness on the matter of baptism, as irrelevant, incompetent, and immaterial, and not proper cross examination, and moves the court to exclude from the record any and all answers that may be made to such questions asked
836 Q-Answer the question,-did you get out of Christ, by coming across the plains, and have to be baptized back into him again?
Counsel for the defendants objects to the question on the grounds above set forth.
Q-I don't know that it is necessary to answer that question.
837 Q-Well now was not the second baptism for something else ~~xxxxxx~~ except the remission of sins and baptism into Christ? A-Not that I know ~~ox~~ of.
838 Q-Was it not for the purpose of baptizing, into the spirit of "Brighamism"? A-Well there was nothing said or spoken about "Brighamism". There was nothing said about it at all,-not a word.
839 Q-And into the spirit of polygamy? A-No sir.
840 Q-That is not the fact? A-No sir it is not the fact, -there was nothing said about that.
841 Q-And did not all of the members of the church that came into Utah,-did they not all have to be baptized and were they not baptized the second time? A-They were instructed to be baptized.
842 Q-Under Brigham Young? A-Well he counselled that of course, but they were not baptized into Brigham Young.
843 Q-I did not say "into him", but I said "under him",- were they not all baptized under him? A-Not under him, but under his counsel perhaps.
844 Q-Don't you know that they were so baptized?
Counsel for the defendants objects to the question on the the ground that it is incompetent, irrelevant and immeterial, and improper cross examination.
845 Q-They had all been baptized under the Presidency of Joseph Smith before that time? A-Yes sir,
846 Q,-And now they had to be baptized under the Presidency of Brigham Young? Is that it? A-I don't know. I know it was done under the revelations of the church, and the advice of its Presidency.

847 Q-That was the way it was done? A-Yes sir.
848 Q-That was the order and advice of the church? A-Yes sir.
849 Q-Now did not the church here have another reformation after that under which you were baptized the second time here in Utah,or the third time in all? A-Yes sir.
850 Q-Well what were you baptized that time for? A-For the same thing I suppose.
851 Q-Well what was that? A-You can call it what you please.
852 Q-Well I want to know what you call it,-was it for the remission of your sins? A-Yessir,I suppose so.
853 Q-Had you got out of Christ that time? A-I don't know anything about that.
854 Q-The original church taught did it not,and does the new testament say you were baptized into Christ? A-Yes sir.
855 Q-And that was what the original church taught? A-Yes sir.
856 Q-That is what the new testament taught,and what the original church taught? A-Yes sir,but our mode of baptism is regarded that we were taught for the,-that we were baptized for the remission of sins. It don't say baptized"into Christ"but of course although it don't say that,still of course we believe that Christ is our leader and head.
857 Q-M Don't the new testament say that"as many as of you as have been baptized into Christ,have put on Christ"? A-Yes sir.
858 Q-Then you were baptized in Kirtland into Christ?
By Mr Cabell,-"We object to that,-for the new testament itself is the best evidence of the fact that it is sought to establish by the witness".
By Mr Kelley,-
859 Q-Answer the question? A-Yes sir.
860 Q-You were baptized the first time for the remission of sins? A-Yes sir.
861 Q-In the name of the Father,the Son,and the Holy Ghost? A-Yes sir.
862 Q-That was the ceremony was it not? A-Yes sir.
863 Q-And that was baptizing them into Christ? A-That was taught in the new testament and the doctrine ~~xxxxxxxxxxxx~~ of the church.
864 Q-Yes sir? A-The new testament says"baptized into Christ"I believe,and that was the doctrine of the church.
865 Q-Does not the book of Mormon say the same thing? A- I don't know whether the book of Mormon does or not?,but I know the new testament was talked to the people in those days,and it is in there I know.
866 Q-The book of Doctrine and Covenants says"baptized into Christ"? A-I don't know sir whether it does or not. I could not say sir without hunting it up to see if it is so.
867 Q-You cannot say from your memory how that is? A-No sir.
868 Q-Were you baptized any more than the three times you have referred to? A-I don't remember.
869 Q-Well,you would remember it if you had been wouldn't you? A-I was baptized for the dead,but not for myself that I remember of.
870 Q-Well I mean for yourself? A-I say I don't remember of any more times for myself.
871 Q-Then you have been baptized three times for yourself? A-I think so sir.
872 Q-Did not the members of the church have to be baptized under the Presidency of John Taylor? A-I do not remember about that,-

875 Q-Were they not re-baptized under the Presidency of John Taylor? A-No sir.

874 Q-Do you testify,swear or affirm,that they were not,-that the members of the church were not re-baptized under the-Presidency of John Taylor? A-Not that I remember of. I don't remember of that.

875 Q-Have you been baptized under Woodruf? A-No sir not that I remember of.

876 Q-Have any of the ~~xxxxxx~~ church members been re-baptized under the Presidency of President Woodruf? A-No sir.

877 Q-They have not?

By Mr Cannon,-"No sir they have not".

By Mr Kelley,-

878 Q-(speaking to Mr Cannon)Are you on the witness stand When you are sworn and on the witness standI will be happy to cross examine you,and I will try to do it at least to my own satisfaction if not yours,and until then I hope you will remain silent,and in interject your un-sworn statements ~~x~~ into the evidence of this witness or other witness,for it is as uncalled for,as it is out of place? A-Well I was just stating the fact.

879 Q-Well that is the kind of a fact that you have no right to state,for you were not asked the question, and I will ask the Commissioner to warn you that it must not be repeated.

By the Examiner,-"Mr Cannon ,-for I understand that ~~x~~ is your name,-it is improper for you to interupt in the way you have done,during the examination of any witness,and if you cannot keep silent,you will have to leave the room".

By Mr Kelley,-(proceeding with cross examination.)

880 Q-Now if there was no rebaptism for the Presidency of President John Taylor,or under the Presidency of Wilford Woodruf,why should there be re-baptism under the Presidency of Brigham Young? A-I don't know sir

881 Q-Was not the re-baptism under Brigham Young performed for the reason that you had never belonged to the original church? A-No sir.

882 Q-And for the purpose of getting into a branch of your own? A-No sir.

883 Q-It was not for that purpose? A-No sir,for I was a member of the church at that time,and had been for years.

884 Q-Did you not lose your original baptism under Joseph Smith when you were ~~xxx~~ baptized under Brigham Young? A-No sir.

885 Q-You testify that you did not? A-No sir,I didn't that I know anything of.

886 Q-Didn't it make it void? A-What void?

887 Q-Did not your baptism under Brigham Young render ~~xx~~ void your original baptism under Joseph Smith? A-No sir it didn't make it void.

888 Q-Was your original baptism under the Presidency of Joseph Smith legal and in effect all the time? A-Yes sir.

~~xxxxxxx~~

Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immetrial,not proper cross examination,and calling for a conclusion of the witness.

A-Yes sir.

889 Q-You still retained it all the time? A-Yes sir.

890 Q-Then why the necessity of a re-baptism? A-Well sir that is because we choose to do it.

891 Q-Choose to do what? A-Choose to be re-baptized, that was our business sir.

892 Q-You choose to be re-baptized when you came here to Utah first,and once again after that at the time of the so called"reformation"here,after that,and all the time you claimed to have been a member of the original church under the administration of Joseph Smith? A-Yes sir,

893 Q-You had been baptized into the church when you first joined it,and yet when you came here to Utah you saw fit to be baptized again? A-Yes sir.

894 Q-Is it not the doctrine of your church here that you should be baptized,-that all should be baptized when they came here? A-Yes sir,that was what was taught when we came here first,-that was what was taught when we came here that time.

895 Q-If you had joined the Disciples church at that time, or at any other time would you have been baptized into that church ? A-What do you mean by that?

896 Q-I mean the Campbellite church,-if you had joined the Campbellites ,would you have been baptized into it? A-I never joined them.

897 Q-Well if you had joined them would you have been baptized? A-I ex pect so.

898 Q-Is it necessary when you join a church to be baptized? A-Yes sir I suppose so,-it is in our church.

899 Q-The Campbellites are a church that baptize by immersion for the remission of sins are they not? A-Well I never joined them,and so I don't know anything about what they do.

900 Q-Well if you had joined them what would you have done,-how would you have been baptized? A-I don't know. I can't say,-for I never joined them. I don't know what I would done and done if I had joined them

901 Q-If you had been baptized by a Deciples preach er would it not have made void your original baptism into the church of Jesus Christ of Latter Day Saints by Joseph Smith? A-I was not baptized by any of them ,and so I x cannot say.

902 Q-If you had been baptized by the Congregational Church,or the Methodist church,or by any other church except this one here,wouldn't it have made void your original baptism? A-Well I consider it would be made void any way,-it would be void any way,and if it was void if I xxx baptized or was baptized I don't think there would be any particular virtue in it.

903 Q-What is that,-I don't understand that? A-I say that I don't consider that there was any particular virtue in the baptism out here,-it was simply done for out satisfaction,and not because we considered that there was anyxhxxx particular virtue in it. We had come over a long weary way,and had met with many a -hardship,and had went through many things to test our temper and some of us we felt might have fallen into sin by the way,and so the baptism here was simply something that was done in view of correcting anything of that kind. It was not necessary in the case of any one who had kept his faith here,and had not fallen into sin at all.

904 Q-Then you considered when you got here that your original baptism was void? A-No sir.

905 Q-Then why were you baptized? A-Because I choosed to be.

906 Q-Was it not the law of the church? A-Now that I know of.

907 Q-Is it not printed and published as the law of the church? A-I don't know.

908 Q-Don't you know that it was? A-No sir.
909 Q-Was it not advised and counselled by every impor-
tant officer in the church from the President down?
A-What?
910 Q-That re-baptise should be performed upon the arriv
al of the people who followed Brigham Young here to
the Valley,upon their arrival? A-Yes sir,that is a
fact.
911 Q-It was advised and counselled by the whole kit and
hoons of them? A-Yes sir. I suppose so,-when they
came here I understand it was,but that has nothing to
do with-our original baptise
912 Q-What were you baptized for the third time,-was that
because you got out of Christ the second time? A-I
don't know,-I think not.
913 Q-Well what was it for? A-I did not say anything
about getting out of Christ? A-
914 Q-Well you were baptised the third time? A-Yes sir
915 Q-Had your second baptism been knocked out,and was
that the reason you were baptized the third time?
A-No sir.
916 Q-Was that third baptism legal too? A-Yes sir.
917 Q-You first and second baptism was legal and binding?
A-Yes sir.
918 Q-They were legal and binding? A-Yes sir.
919 Q-So you were baptized three times in all? A-Yes sir
920 Q-Does it require three baptisms in the kingdom of
heaven,or in this church out here? A-Yes sir, three
baptisms,-that is the question?
921 Q-I asked you if it required three baptisms x in this
church out here in the Valley,in Utah Territory here,
to enable a member of the church here to enter the
Kingdom of Heaven? A-No sir,it is not necessary.
922 Q-Do they teach that baptism as a doctrinex,-?
A-They have taught it.
923 Q-Wait until I get through with the question,-they
teach that baptism here as a doctrine,-that re-bap-
tism? A-I suppose they have.
924 Q-The authorities in the church here in Utah have?
A-Yes sir,they taught it.
925 Q-And insisted that every one that came here should
be baptised and have baptized them the third time
since coming here? A-That is the understanding.
926 Q-So the teachings of the church here in Salt Lake
City under the Presidency of Wilford Woodruff teaches
that person must be baptized three times? A-It don't
927 Q-It does not? A-No sir.
928 Q-Did you not just say that it did? A-No sir,it does
not say anything about the number of times.
929 Q-Don't they teach that,and have they not required
that of their members? A-No sir.
930 Q-Don't they teach that publicly from the stand? A-No
sir.
931 Q-And that you solemly affirm to? A-They baptised
them after they came here.
932 Q-They baptized them after they came here? A-Yes sir
933 Q-Even if they were baptised before they came here?
A-Yes sir.
934 Q-That did not make any difference? A-No sir,for
their baptise was good before they came here,-
935 Q-It did not make any difference whether or not they
belonged to the church,-they-were baptized when they
came here? A-Yes sir.

936 Q-Baptism is one of the first ordinances that is required of a man when he comes into the church,is it not? A-Yes sir,it is the first.

937 Q-It is the very first ordinance required? A-Yes sir for he is not in the church until baptized.

938 Q-Now how does it happen that members of the original church that were baptized in Illinois,or in any other state in the Union or any where in the world for that matter,-in Europe or any where else,by Brigham Young must needs be re-baptized when they came here to Utah A-Well you must ask them,for I can't tell you.

939 Q-Well was it not because of the rules and regulation of the church adopted after they came to Salt Lake City,requiring two baptisms? A-After they came here it was required to be practiced because it was the advice and decision of the council and the Presidency it was decided that it was best to use the ordinance of baptism for all that chose to use it,and I choose to use it. Now that was the way it was according to my understanding.

940 Q-Now I will leave that branch of my cross examination,and ask you if King James's translation of the New Testament was not the law of the church prior to the death of Joseph Smith?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is not the best evidence,the book itself being the best evidence of the fact sought to be proven.

941 Q-Was not the new testament,-the King James's translation of the new testamentthe law of the church prior to the death of Joseph Smith,in connection with the book of Mormon,and the book of Doctrine and Covenants?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not the best evidence,and improper cross examination.

942 A-Why are the three books we believe in sir.

Q-And were not those three books the law of the church prior to the time of the death of Joseph Smith?

~~XXX~~ A-Yes sir,-those were the books ~~xxxx~~ were governed by

943 Q-And those were the only books that you were governed by prior to the death of Joseph Smith? A-Yes sir Excepting with the books of Doctrine and Covenants with them.

944 Q-And they contained the law of the church up to that time? A-Yes sir. They contained the law we were be governed by we supposed.

945 Q-Now does the Apostle Paul in the new testament in the letter to the Hebrews say you must not return and teach the first works ~~xxxxx~~ for all men?

Counsel for the defendants objects to the question asked the witness on the ground that it is not the best evidence ,and does not call for the best evidence,is incompetent, irrelewant and immaterial,and incompetent.

946 Q-Answer the question? A-What is that? I don't understand it.

947 Q-Does not the Apostle Paul in his letter to the Hebrews teach the people not to return to their first works,and do them over again? A-The Apostle says,leaving the principles of the doctrine of Christ, let us go on into perfection,but Joseph Smith says, "not believing,let us go on to perfec tion etc",and that includes baptism,and remission of sins and all these things. It seems that some of the people fell away,and then it was necessary for their re-conversion that

948 Q-That was the way that was? A-Yes sir,that is the way I understand it.
949 Q-How how do you- come to get that "not" in there? A-That was in the revelation.
950 Q-From whom? A-Joseph Smith?.
951 Q-When? A-In his life-time.
952 Q-When he translated the bible? A-Yes sir.
953 Q-Do you believe in that translation? A-Do I believe in it.
954 Q-Yes sir,and does this church believe in it? A-~~They believe in it to some extent~~ Yes sir,to some extent?
955 Q-To what extent do they believe in it? A-They believe in it where it has not been changed or altered
956 Q-Has that part been altered? A-His translation I mean. I don't know whether that has been altered or not,-I can't say as to whether that has or has not been altered,-I don't know anything about that at all
957 Q-Has any part of it been altered? A-Well his translation and the bible does not agree in many instances They do not agree in all instances.
958 Q-Well does this church believe in it? A-They believe in it as he translated it.
959 Q-Have they accepted it? A-Yes sir.
960 Q-And why have they not accepted it,if-you know? A-They have not got it to accept it.
961 Q-Don't you know that they take and accept the King James's translation of the bible here? A-Yes sir.
962 Q-You know that? A-Yes sir.
963 Q-And you don't know they don't accept the new translation of the bible by Joseph Smith? A-Well I can't say.
964 Q-You know whether they do or do not accept the new translation of the bible by Joseph Smith? A-Well they don't consider it accepted,-that is by young Joseph Smith,I mean.
965 Q-Well what do you mean by that? A-I say I don't understand that it is accepted by the church,but I understand it is by young Joseph Smith and his church
966 Q-Well it is published as his translation of the bible and it does not come through this church? A--Yes sir that is the way I understand it,-it don't come through this church here.
967 Q-Is there any publication of the bible that pretends to be published,-I should say that pretends to be translated by Joseph Smith of Plano,Illinois,or Nauvoo,Iowa? A-Well there was one given out here that was published.
968 Q-By whom? A-I don't know who it was by,but it is here somewhere,for I saw it.
969 Q-Was it not translated by his father? A-His father did not publish it.
970 Q-Did he not translate it? A-Yes sir,he translated it.
971 Q-The first and original Joseph Smith translated it? A-Yes sir,so I understand.
972 Q-Do you accept that one,-that translation that was made by Joseph Smith the prophet of the church who was killed in 1844? A-He did not publish it,-he did not print it.
973 Q-Do you know whether or not it was published just like he translated it or not? A-I don't know.
974 Q-Do you know of a single change that was made in it different from what it was when he translated it? A-Yes sir,it is different from the old bible.

975 Q-Do you mean to say that it differs from the old bible? A-Yes sir.

976 Q-From the King James translation? A-Yes sir.

977 Q-Well that is not what I asked you.-I asked you if you knew of a single change that is in the published edition, or the edition as published that is not in the original manuscript? A-No sir, I don't.

978 Q-You do not know of a single change? A-No sir.

979 Q-Then how do you know that it is not as originally translated? A-Well I don't know.

980 Q-Did you say the original translation of the bible is not in the city here ? A-No sir, I don't know where it is.

98I Q-Do you say that Wilford Woodruf has not one on the shelves of his library, and Joseph F. Smith, and every one of your apostles? A-Well I don't doubt but that they have, for I have one on my shelves.

982 Q-Do you believe it? A-Do I believe it?

983 Q-Yes sir? A-No sir, I don't believe all of it.

984 Q-Well what part of it do you believe? A-Well I ~~can't~~ can't tell you until I read it.

985 Q-Well what part don't you believe? A-I can't tell you until I read it.

986 Q-Were you in the counsel here in Salt Lake City when the new translation of the bible first came here? A-No sir.

987 Q-And was considered by the counsel,-that is the new translation of the bible was considered in the council? A-No sir, I was not here.

988 Q-Did you read anything about that council? A-No sir

989 Q-You say you don't recollect anything about it, or cannot remember reading anything about it? A-No sir

990 Q-Don't you know that that council decided that they could not find a single solitary change from the original? A- No sir.

991 Q-~~Not a thing about that? A-No sir~~.You don't any-thing about that? A-No sir.

992 Q-Not a thing about that? A-No sir.

993 Q-Don't you know that Orson Pratt stated it publicly on the stand afterwards? A-No sir.

994 Q-Don't you know he stated it in public or private afterwards? A-No sir.

995 Q-And don't you know that Wilford Woodruff has made that same statement time and time again? A-No sir.

996 Q-Who has the charge of the original records of that bible? A-I don't know.

997 Q-That is another of the things that you don't know? A-Yes sir. There is many a thing I don't know in this world,-there are lots of things I profess to know nothing about.

998 Q-Is that profession true? A-Yes sir.

999 Q-Who,-is it by Joseph Smith? A-I don't know.

I00I Q-Who is it professed to have been written by? A-I don't know sir.

I002 Q-Is it by Joseph Smith? A-I don't know.

I003 Q-Did you ever see it? A-No sir.

I004 Q-Were they ever brought here? A-No sir, not that I know of.

I005 Q-The church in Utah never had them so far as you know? A-No sir, not to my knowledge. If it ever did I don't know anything about it.

I006 Q-Then the church here never had all the records did it, if it did not have that?

A-What is that? What is that about the church.

1007 Q-I asked you if it was not a fact that the church here in Utah never had all the records ~~of the church~~ if it did not have that? A-Have what?

1008 Q-That translation of the bible made by Joseph Smith A-Well I don't know anything about what they had. I don't know all the records the church had, or whether it had them all or not. They never had that to my knowledge, but I don't know anything about it.

1009 Q-Have they the first elders journal here? A-I don't know anything about that.

1010 Q-Do you know what books they have? A-No sir.

1011 Q-Do in your examination in chief-you stated there was no difference in polygamy as taught here in Utah, and the teaching of polygamy as it was taught to-you by Joseph Smith didn't you? A-I don't know of any difference.

1012 Q-Did you not make that statement on your direct examination, that there was no difference between the doctrine of polygamy ~~taught~~ as taught here, and the doctrine as it was taught to you by Joseph Smith at Nauvoo before his death? A-Yes sir. I never knew or could see any difference.

1013 Q-That is what you say now? A-Yes sir.

1014 Q-And that is what you stated on your direct examination, or in your examination in chief? A-Yes sir.

1015 Q-Why do you say that, when you say that Joseph Smith never said anything to you only that a man could have more than one wife if he wanted to? A-Well that is what he said.

1016 Q-Well if he said that to you, what makes you say that the doctrine he taught you was the same as was taught here? A-He told me that a man could have more than one wife, and is that not the same thing.

1017 Q-What is that? A-I said that was the same thing.

1018 Q-How does that answer include all there is in the revelation on polygamy? A-In what way.

1019 Q-Does that answer of yours in which you say that the doctrine of polygamy as taught here was the same as that taught by Joseph Smith at Nauvoo, does that include all that there is taught in the alleged revelation on polygamy as ~~xxxxxxxxx~~ given to the church here? A-I don't say. The revelation on polygamy as you call it, is in the book here.

1020 Q-Well why do you say that the teaching is no in the same as Joseph Smith taught you? A-Well it was. As far as it went it was.

1021 Q-As far as it went it was? A-Yes sir.

1022 Q-As far as what went? A-As far as what Joseph Smith told me it went.

1023 Q-Well he did not say anything to you, did he, except that a man could have more than one wife, Is that not what you stated he said to you? A-Yes sir.

1024 Q-That a man could have more wives than one, if he wanted to? A-Yes sir. That is about what he said. Of course he went on further to explain it, but that was about the substance of it.

1025 Q-That is about the substance of it,-all he told you in substance.? A-Yes sir.

1026 Q-How could he marry them? A-For time and eternity.

1027 Q-A man could have more wives than one for time and eternity? A-Yes sir.

1028 Q-He did not teach you that a man could not be exalted in the

hereafter unless he had more wives than one? A-No sir he did not teach me that. He did not say anything about that.

1029 Q-He did not teach you that,-that is that a man could not be exalted in the hereafter,in eternity,-unless he had more wives than one? A-No sir.

1030 Q-Did he teach you that a man could not take a second wife while his first wife,or the wife he might have at the time,was living without first obtaining the consent of the living wife? A-No sir.

1031 Q-He did not teach you anything about that did he? A-No sir,I can't say that he did.

1032 Q-Well did he teach you anything about that? A-I can't remember that he did say anything about that at all. If he did I don't remember it.

1033 Q-Well they teach that here don't they? A-What?

1034 Q-That a man cannot be exalted in the hereafter unless he has more wives than one,and that a man before he can take a plural wife,must first obtain the consent to his doing so of his first wife? A-Well that is what I understand.

1035 Q-Now is it not a fact that that polygamist revelation teaches that a man can be married to as many woman as he pleases without the consent of his first wife? A-Well the revelation is in there and you can see what it teaches.

1036 Q-Well does it or does it not teach that a man can be married to a plural wife or wives without the consent of his first wife? A-I can't say.

1037 Q-Do you say that revelation does not teach that a man can't be married to the second wife without the consent of his first wife? A-Why it teaches that he can have the consent of the first one.

1038 Q-That is what it teaches? A-Yes sir.

1039 Q-You are positive of that? A-Yes sir I think so.

1040 Q-Don't it teach that he cannot be married the second time without the consent of the first wife? A-I think not.

1041 Q-Is that not what it teaches? A-I think not.

1042 Q-Don't you know that that is the fact? A-No sir.

1043 Q-Don't you know that he must have the consent of his first wife before he can take another wife,and if she refuses to give her consent,is it not in the polygamous revelation that she must be killed? A-No sir,I never heard of any such a revelation as that.

1044 Q-You never heard of that? A-No sir.

1045 Q-Do you say that is not the revelation? A-I say I don't know. If it is I never heard of it,-that she must be killed,-and I don't believe you did either.

1046 Q-Well what is to be done with her in case she persists in her refusal? A-Well it don't say that she is to be killed,-that I am positive of.

1047 Q-Or put away? A-No sir,it don't say she is to be killed or put away either. It don't say either of that.

1048 Q-DD you say that is not in the revelation? A-I don't remember any such a thing as that and I wrote it myself.

1049 Q-The Lord gave it to you,-is that what you say? A-No sir,I meant to say I copied it. That is what I mean when I say I wrote it.

1050 Q-You copied it in less than an hour? A-Well I couldn't say how long it was that it took me to copy it. I told you before I

could not tell how long it took me to copy it,-whether it was an hour or half an hour or how long.

I049 Q-Well you said it was not over an hour? A-I said I thought it wasn't over an hour,-and maybe it was not that long. I can't say how long it took me. It took me an hour I should say,-maybe not so long,but as to the time I cannot specify how long it was.

I050 Q-Look at section one hundred and fifty two of the Ex. if it is offered by the defendants marked "A",and state what it is? Look at it and see what it says about the woman who shall persist in her refusal to give her consent to the husband taking another wife? A-It says she shall be destroyed in the flesh.

I051 Q-Do look at section one hundred and thirty two? A-Well here it is I have it right here.

I052 Q-Well that is the revelation which you say you copied? A-Yes sir,that is the revelation I copied.

I053 Q-State to the reporter how many pages of that book it makes? A-It is eleven pages.

I054 Q-And you are willing to go on record here as testifying that you wrote that in less than an hour? A-Yes sir.

I055 Q-Is that all you were going to state? A-I did not say it was than an hour,I did not say that,for I can't say how long it took me. I said it was in the neighbourhood of an hour,and saying it that way. I was a heavy man writing in those days,and could write heavily fast when I tried.

I056 Q-Have you not been here only a dozen times that you were not more than an hour in copying the writing Q. The copy of that revelation? A-Well I don't think I was,but I don't know.

I057 Q-Will you want to go on record here as testifying that you copied it in an hour? A-An hour or less. I could not say as to the time,-it was an hour or less I should say,but I can't say positively as to the time,but I know that I copied it whatever the time was that I copied it.

I058 Q-[illegible] that the paper you copied,you copied it in an hour? A-I did, such it was in that time,but I can't tell you how long it was.

I059 Q-Could it have been this paper that? A-What paper?

I060 Q-This paper containing this revelation? A-Yes sir it is the that revelation,-I remember that.

I061 Q-And you copied it all on one sheet of foolscap paper? A-No sir it took more than one sheet of paper.

I062 Q-Don't you know that that could not be copied,-that you could not copy that on one sheet of paper,or that you could not copy it on twenty sheets of paper,-or foolscap paper? A-No sir I don't know anything about it.

I063 Q-And that you could not copy it in three hours,letting alone one hour? A-No sir,I think I could copy it in merely an hour, I don't think it would take me much over an hour to copy it,and I don't think I was much over an hour copying it either.

I064 Q-You never saw it from that time to this did you? A-See what?

I065 Q- That copy that you made at that time,-is it not a fact that you have never seen it from that day to the present time? A-No sir.

I066 Q-You have not seen it? A-No sir.

I067 Q-Then how can you say it was this revelation printed in more that you copied? A-Because I read the one I copied.

I068 Q-And you remember what it stated? A-Yes sir,I remember enough of it to know that is the one.

I069 Q-Did you ever see this section one hundred and thirty two in this book at any time until after 1852? A-In the book?

I070 Q-Did you ever see it in any shape until after 1852? A-Yes sir.

I071 Q-When and where? A-I see it at the time I copied it.

I072 Q-Did you ever see it in any shape after the time you copied it until after 1852? A-No sir, I did not see it from the time I copied it. I did not see it from that time until after I came out here.

I073 Q-Do you swear to that positively ? A-Yes sir, I affirm to it.

I074 Q-When did you come out here? A-In 1847. I never saw it after the time I copied it until I came out here, and then it was printed.

I075 Q-How long after you came out here that you saw it first? A-I could not say. It was only when it was published here.

I076 Q-Well this book purports to have been published in 1876? A-Yes sir, but it was published, -if you printed before that, -there was an edition before that.

I077 Q-And that you swear to? A-I think it was printed before that but in 1876 was the first time it was published in the Doctrine and Covenants I think.

I078 Q-The first edition that was ever published was in 1876, nor was that the first time that it was printed that you saw it? A-Yes sir, I think that was the first time that it was printed in that form that I saw it.

I079 Q-Now are you able to tell sir that this section one hundred and thirty two is the same thing as the one you copied in 1848, when you say that you never saw it from 1848, the date you copied it, until it was published here in Salt Lake City which was in 1876? A,-Well I know it.

I080 Q-How do you know it? A-Well it seems the same.

I081 Q-How do you know it is the same? A-Because it reads the same.

I082 Q-You know it because it reads the same? A-Yes sir.

I083 Q-Can you repeat a single paragraph from it from memory? A-I don't know that I can.

I084 Q-Can you repeat four consecutive lines from any paragraph or part of that alleged revelation that you say you copied in 1848, from memory? A-I don't know as I can.

I085 Q-Do you know that you cannot? A-I don't believe I can.

I086 Q-Can you repeat from memory any two consecutive lines of any paragraph in it? A-Well I can't say that.

I087 Q-Can you tell how many paragraphs were in it? A-No sir, not unless I look at it.

I088 Q-Do you know how many paragraphs were in the one you copied? A-I don't know sir.

I089 Q-You don't know anything about that? A-No sir I don't believe I do for I did not notice it to me. That was a long time ago and I can't remember even if I knew then.

I090 Q-Was there twenty? A-I don't know sir. I don't know that there were any paragraphs that were marked off as paragraphs, and I copied it just as fast as I could I remember that, and did not pay much attention to how many paragraphs there were, or whether there were any or not.

I091 Q-Was it paragraphed, at all ,-the one you copied? A-No sir it was not in verse.

I092 Q-How was it paragraphed, if at all,-was it by lines? A-Yes sir.

I093 Q-Every line was numbered? A-Yes sir,-every line was numbered did you say?

I094 Q-Yes sir? A-No sir.

I095 Q-It was not numbered,-that is every x line you say was not numbered? A-No sir.they were not numbered.
I096-Q-How is it not a fact that every line was numbered on the paper on which the revelation was written? A-No sir. There was no umbering of the lines on the paper that I know of.but it was written on paper that had lines on it.
I097 Q-Can you remember a single solitary sentence in the one you say you copied,without the aid of this book to look at? A-I don't know.
I098 Q-Well I want you to say whether you can or cannot? A-I don't know sir that I can.
I099 Q-Well then,why do you say it is the same thing? A-Because when I read it I see it is the same thing.
IB00 Q-That is the way you know it is the same? A-Yes sir
II01 Q-And yet you say you cannot remember a single sol- itary sentence, paragraph or line in the one you copi- ed? A-No sir,I don't know that I can remember it.
IB02 Q-How can't you know that you copied that a long time after that if you copied it at all? A-No sir.
II03 Q-Don't you know that you never copied this at all? A-No sir,I know I did copy it.
II04 Q-When? A-I copied it at the time I told you?
II05 Q-When was that? A-The time I stated.
II06 Q-Can you repeat a single sentence in it without the aid of the book? A-I don't remember now sir.
II07 Q-Do you mean to say that you cannot now remember whether you can do so or not,or do you mean to say that you cannot remember a single sentence in it? A-I can't say.
II08 Q-Answer the question please,-can you remember a single word,or sentence that was in that revelation you say you copied without the aid of the book? A-I don't know that I can from memory.
II09 Q-Well then, how can you identify it as being the same book? A-By reading it. Sir. By reading it I see it is the same.
III0 Q-Well not is this not the way you identify it,-is it not because of your teaching since you came here to the village? A-No sir that is not the way.
III1 Q-Are you not taught that by Bishop Hinman and Indian Young? A-No sir.
III2 Q-How do you know that Bishop Hinman over in Salt Lake City? A-I don't know sir only by what he said,and he said he did. That is what he told me.
III3 Q-And that is the only reason you know or say this is the same as the revelation you copied,because they also told you so? A-No sir,for by reading it I see it is the same. It is the same sentences as the one I wrote,and has the same ideas in it.
III4-Q-Well just repeat a sentence that was in the one you wrote? A-Xxxxx. Give me the book am. I will try
III5 Q-Can't you do it without the book? A-No sir.
III6 Q-You cannot do it sitout the book? -No sir.
III7 Q-You cannot repeat one single sentence or idea that is in the one you copied from memory? A-No sir,I don't know that I can.
III8 Q-Did the original that-you copied say"sealin," or "poly gmy"? A-Sealing or polygamy?
III9 Q-Yes sir? A-In what way?
II20 Q-Yes sir,which word did it use? A-I don't remember a: it used either.

II21 Q-You say that you don't remember that it used either
A-No sir I don't remember that it did.
II22 Q-What was it called? A-It is called a celestial
revelation on marriage I believe.
II23 Q-Was that the title of it,-just give me the title
a gain? A-It was like "Celestial Order of Marriage",-I
think it was something like that. Something of that
kind I think.
II24 Q-Was that the title of it? A-I don't remember that
that was the title of it,or that it had any title in
particular.
II25 Q-Was that the title of the one you copied?,-that is
what I am asking sir? A-Yes sir that was the substance
of my the title.
II26 Q-Well what was that? A-The"Celestial order of mar-
riage"
II27 Q-Will you swear the word"plurality"was not in there?
A-Some line.?
II28 Q-Was it? A-Well I would not swear they were not.
II29 Q-Did you see they ? A-I guess that they were. I presume
it was.
II30 Q-Did you "read" poly gamy".in the one you copied? A-I
don't think I did not.
II31 Q-Will you say it was or was not now? A-I cannot
tell you,for I have not interested myself on these
matters.
II32 Q-Was the word" plurality"in the one you copied? A-I
think so.
II33 Q-Can you remember it in there ? A-I cannot tell
you sir.
II34 Q-Was it "plurality of Gods" ,or "plurality of wives"
A-I think it was right.
II35 Q-Will you it oh! or not? A-I cannot tell you sir.
II36 Q-That is another of the things you cannot remember?
A-No sir.
II37 Q-Are not you say you copied it? A-Yes sir.
II38 Q-Is it true says" plurality of Gods", or is not say
"plurality of wives"is in print or not? If it
was not would you tell whether it is great or
small? A-That is right.
II39 Q-Is it so or not? A-That must be in there.
II40 Q-That which is in the book here is right? A-Yes sir
II41 Q-Will it say "plurality of Gods",and not "plurali
-ty of wives"is it the one you copied? A-Well that
is the one I copied.
II42 Q-How do you know that? A-I know it"
II43 Q-Will you never see it from 1843 until 1876 the time
it was published? That is over forty years,and
I want to know how you know it? A-I have told
you how I know it.
II44 Q-Will you tell me how you know it? A-I know it by
reading it.
II45 Q-You know it by the reading of it,and yet you cann-
not repeat a single solitary sentence or word or idea
or anything that was in the one you copied,but
you say you know it by readin it? A-Yes sir.
II46 Q-By reading the alleged revelation in this book you
identify it as being the same one you copied away
back over forty years before the time that it was
published,in nearly sixty years from the present
time? A-It was not forty years and it is not forty
sixty years either since I copied it. It isn't fifty
years either.
II47 Q-Well it was a great many years ago,-one you can
identify it as the same,and yet you cannot remember a
single solitary sentence that was in the one you-say
you copied? A-No sir I can't for my mind is not cle-
ar on that question,but I know it is the same.
II48 Q-You could not tell how many paragraphs were in it
either? A-No sir,for that is some thing that I
never noticed.

II49 Q-It covers ten pages, or rather eleven pages of this book? A-Yes sir.

II50 Q-And you wrote it in an hour? A-That is what I suppose.

II51 Q-Did you not say at first that it did not take you more than half an hour? A-I said no. I said that it took me some little time,-perhaps half an hour,-but I say now it took me as much as an hour. It took me [illegible] for anyone.

II52 Q-And did you, in your cross examination [illegible] it covered more than one piece of [illegible]? A-Well I can't say, for I [illegible] it on more than one piece of [illegible] paper, I [illegible].

II53 Q-[illegible] it on the [illegible]? A-You see it [illegible] or certain.

II54 Q-Well was it there for certain? A-I [illegible]

[illegible] it took, but I wrote it [illegible].

II55 Q-Well [illegible] that it was there for certain? A-I [illegible] to-anything [illegible] to [illegible] it [illegible], to write it on.

II56 Q-[illegible] revelation written out over more [illegible] of [illegible]? A-I [illegible] -I don't [illegible] it [illegible].

II57 Q-Will you [illegible] that revelation written out [illegible] of [illegible] to [illegible] it could be written out in [illegible] that you did write it on it [illegible]? A-I [illegible] I could not tell [illegible] it took [illegible].

II58 Q-[illegible] on [illegible] on [illegible] writing [illegible] ca[illegible]? A-I do not [illegible] I did [illegible] it took [illegible], but I wrote it [illegible] well [illegible] that as I could, [illegible] days [illegible] pretty well.

II59 Q-[illegible] rapid [illegible]? A-Well I wrote [illegible].

II60 Q-[illegible] could you write it [illegible]? A-I [illegible].

II61 Q-[illegible] write one hundred? A-I could not say.

II62 Q-[illegible] say what you could do? A-I think not, -I don't [illegible] any one [illegible].

II63 Q-Was it not that is [illegible] A-No sir, [illegible] a first class [illegible] writer.

II64 Q-[illegible] you to come [illegible] and testify as a witness in this case? A-[illegible] to come here and testify [illegible]?

II65 Q-Yes sir? A-Well I [illegible].

II66 Q-[illegible] President [illegible]? A-Yes sir.

II67 Q-[illegible] Mr. [illegible]?

Counsel for the defendants objects to the question, and the witness, on the ground that it is immaterial and immaterial, and not proper cross examination.

A-[illegible].

II68 Q-Did you not talk with any of the officers of the [illegible] about this? A-About what?

II69 Q-About your testimony here?

Counsel for the defendants objects to the question and the witness on the ground that it is irrelevant, for the reason that the witness has stated who asked him to come here to testify.

A-No sir.

II70 Q-You have not conversed with any of them? A-No sir, not with any of them.

II71 Q-Have you not talked with any of them since the tenth of this month about it? A-No sir.
II72 Q-Since the first of this month? A-No sir.
Counsel for the defendants objects to all this examination for the reasons above set forth.
II73 Q-You want to go on record as saying you have not at any time or place, talked with any of the officers of the church of which Wilford Woodruff is the President about this case? A-No sir.
II74 Q-You say you have not talked with any of them? A-No sir I have not,-not about this case.
II75 Q-Or about being a witness here? A-No sir.
II76 Q-What business are you in here? A-I am over at the Temple gate,-in the office there.
II77 Q-What are you doing there? A-Attending to the office there.
II78 Q-You are working under some one elde there are you? A-I am working there for the church.
II79 Q-Under President Woodruff? A-No sir,-under the presiding Bishop.
II80 Q-Did you get leave of absence of the presiding bishop to come here? A-I came here myself, and left word there that I wanted to come here, or that I was wanted here. I left word there with the man that has charge of the block there, that I was wanted to come here, and here is where I would be. I told him that I would be absent and there is no one in my place.
II81 Q-Then you say that the law of the church is that if a first wife refuses her consent to the marriage of her husband to the second wife, and persists in her refusal,-the law of the church is that she will die in her flesh? A-Whatever that book says it is.
II82 Q-Well is that not what you say it was? A-Whatever the book says it is it is.
II83 Q-Well what is your answer,-whatever it says in the book is right? A-Yes sir.
II84 Q-Was that the law of the church prior to the death of Joseph Smith? A-Not that I know of.
Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that it is not the best evidence.

By Mr P.P. Kelley,-"We desire that the alleged revelation to be found on page 463 of Defendants exhibit "A", and being section one hundred and thirty two be copied into the record in connection with the evidence of this witness, for the purpose of showing how much of it there is."
Counsel for the defendants objects to the revelation above referred to being copied into the record, for the reason that it is incompetent, irrelevant and immaterial, and moves the court to strike the same from the record in case it is copied, and tax the cost for copying same against the plaintiff.
The revelation above referred to, is in words and figures as follows, to wit,-

Section 132.

Revelation on the eternity-of the Marriage Covenant, including Plurality of Wives. Given through Joseph the Seer, In Nauvoo, Hancock County, Illinois, July 12th 1843.

1 Verily, thus saith the Lord unto you, my servant Joseph, that in-as-much as you have inquired of my hand, to know and understand wherein, I, the Lord justified my servants Abraham, Isaac and Jacob; as also Moses, David and Solomon, my servants as

of their having many wives and concubines;
2 Behold,and lo,I am the Lord thy God,and will answer thee-as touching this matter.
3 Wherefore prepare thy heart to receive and obey the instructions whi ch I am about to give unto you;for all these who have this law revealed unto them must obey the same.
4 Q-For behold,I reveal unto you a new and everlasting covenant;and if ye abide not that covenant,then ye are damned;for no man can reject this covenant,and be permitted to enter into my glory;
5 For all who will have a blessing at my hands,shall abide the law which was appointed for that blessing,and the conditions thereof,as were instituted from before the foundation of the world.
6 And as pertaining to the new and everlasting covenant ,it was instituted for the fulness of my glory;and he that receiveth the fulness thereof,must and shall abide the law ,or he shall be damned,saith the Lord God.
7 And verily I say unto you,that the conditions of this law,are these;-All covenents,contracts,bonds,obligations, oaths,vows,performances,connections,associations,or expectations,that are not made and entered into,and sealed,by the Holy Spirit of premise,of him who is annointed,but as well for time,and for all eternity,and that too most holy by revelation and commandment through the medium of mine annointed,whom I have appointed on the earth to hold this power,(and I have appointed unto my servant Joseph to held this power in the last days,and there is never but one on the earth at a time,on whom this power,and the keys of this priesthood is conferred),are of no efficacy,virtue or force,in and after the resurrection from the dead;for all contracts that are not made unto-this end,have an end when men are dead.
8 Behold mine house is a house of order,saith the Lord God,and not a house of confusion.
9 Will I accept of an offering,saith the Lord,that is not made in my name.
10 Or will I receive at your hands that which I have not appointed.
11 And will I appoint unto you,saith the Lord,except it be by law,even as I,and my father ordained xxxx unto you, before the world was.
12 I am the Lord thy God,and I give unto you this commandment,that no man shall come unto the Father,but by me, or by my word,which is my law saith the Lord.
13 And everything that is in the world,whether it be ordained of men by thrones or principalities,or powers,or or things of name,whatsoever they may be,that are not by my word,saith the Lord shall be thrown down,and shall not remain after men are dead,neither in nor after the resurrection,saith the Lord your God.
14 Q-For whatsoever things remain are by me;and whatsoever things are not by me,shall be shaken and destroyed.
15 Therefore,if a man marry him a wife in the world,and he marry her not by me,nor by my word;and he covenant with her so long as he is in the world,and she with him,their covenant and marriage are not of force when they are dead, and when they are out of the world;therefore,they are not bound by any law,when they are out of the world;
16 Therefore,when they are out of the world,they neither marry,nor are given in marriage;but are appointed angels in heaven,which angels are ministering serv ants,to minister for those who are far more,and an exceeding,and an eternal weight of glory;
17 For these angels did not abide by law,therefore they cannot be enlarged,but remain seperately and singly,without exaltation in their saved condition,to all eternity,x and from henceforth are not Godsbut are angels of God for ever and ever.

18 And again,verily I say unto you,if a man marry a wife,and make a covenant with her for time and for all eternity,if that covenant is not by me,or by my word,which is my law,and is not sealed by the Holy Spirit of promise, through him who I have annointed and appointed unto this power--then it is not valid,neither of force when they are outside of the world,because they are not joined by me,saith the Lord,neither by my word, when they are out of the world,it cannot be received there ,because the angels and the Gods are appointed there,by whom they cannot pass;they cannot therefore,inherit my glory,for my house is a house of order,saith the Lord God.
19 And again,verily,I say unto you,if a man marry a wife by my word,which is my law,and by the new and everlasting covenant,and it is sealed unto them by the Holy Spirit of promise,by him who is annointed,unto whom I have appointed this power,and the keys of this Priesthood; and it shall be said unto them,ye shall come forth in the first resurrection;and if it be after the first resurrection,in the next resurrection;and shall inherit thrones,kingdoms,principalities,and powers,dominions,all heights and depths--then shall it be written in the Lambs Book of Life,that he shall commit no murder whereby to shed innocent blood,and if ye abide in my covenant,and committ no murder wherby to shed innocent blood,it shall be done unto them in all things whatsoever my servant hath put upon them in time,and through all eternity,and shall be of full force when they are out of the world;and they shall pass by the angels and the Gods which are set there,to their exaltation and glory in all things,as hath been sealed upon their heads,which glory shall be a fulness and a continuation of the seeds for ever and ever.
20 Then shall they be Gods,for they have no end;therefore shall they be from ever lasting to lasting,because they continue;then shall they be above all,because all things are subject unto them. Then shall they be Gods, because they have all power,and they angels are subject unto them.
21 Verily,verily,I say unto you,except you abide my law, ye cannot attain to this glory.
22 For straight is the gate and narrow the way that leadeth unto exaltation and continuation of the lives,and and few there be that find it,because ye receive me not in the world,neither do you know me.
23 But if ye receive me in the world,then shall ye know me,and receive your exaltation,that where I am,ye shall be also.
24 This is eternal lives,to know the only wise and true God,and Jesus Christ whom he hath sent. I am he. Receive ye,therefore,my law.
25 Broad is the gate and wide the way that leadeth to the deaths,and many there are that go in thereat;because they receive me not,neither do they abide in my law.
26 Verily,verily,I say unto you,if a man marry a wife according to my word,and they are sealed by the Holy Spirit of promise,according to mine appointment,and he or she shall commit any sin or transgression of the new and everlasting covenant whatever,and all manner of blasphemies,and if they commit no murder,wherein they shed innocent blood,yet they shall come forth in the first resurrection,and enter into their exaltation;but they shall be destroyed in the flesh,and shall be delivered unto the buffetings of Satan unto the day of redemption,saith the Lord God.
27 The blasphemy against the Holy Ghost,which shall not be forgiven in the world,or out of the world,is that ye commit murder,wherein ye shed innocent blood,

and assent unto my death,after ye have received my new and everlasting covenant,saith the Lord God;and he that abideth not this law,can in no wise enter into my glory,but shall be damned,saith the Lord.
28 I am the Lord thy God,and will give unto thee the law of my Holy Priesthood,as was ordained by me,and my Father before the world was.
29 Abraham received all things,whatsoever he received, by revelation and commandment,by my word saith the Lord, and hath entered into his exaltation,and sitteth upon his throne.
30 Abraham received promises concerning his seed,and of the fruit of his loins,-from whose loins ye are,namely, my servant Joseph,-which were to continue so long as they were in the world;and as touching Abraham and his seed,out of the world they should continue;both in the world and out of the world shall they continue as innumerable as the stars;or if ye were to count the sand upon the sea shore,ye could not number them.
31 This promise is your,also,because,ye are of Abraham, and the promise was made unto Abraham;and by this law are the continuation of the works of my Father,wherein he glorifieth himself.
32 Go ye,therefore,and do the works of Abraham;enter ye into my law,and ye shall be saved.
33 But if ye enter not into my law ye cannot receive the promise of my Father,which he made unto Abraham.
34 God commanded Abraham,and Sarah gave Hagar to Abraham to wife. And why did she do it? Because this was the law,and from Hagar sprang many people. This therefore, was fulfilling,among other things,the promises.
35 Was Abraham therefore,under condemnation? Verily, I say unto you,nay;for I the Lord commanded it.
36 Abraham was commanded to offer his son Isaac,nevertheless it was written,thou shalt not kill. Abraham,however,did not refuse,and it was accounted unto-him for righteousness.
37 Abraham received concubines,and they bear him children,and it was accounted unto him for righteousness,because they were given unto him,and he abode in my law,as Isaac also,and Jacob did none other things than that which they were commanded;and because they did none other things than that which they were commanded,they have entered into their exaltation,according to the promises,and sit upon thrones,and are not angels,but are Gods.
38 David also received many wives and concubines,as also Solomon and Moses my servants,as also many others of my servants,from the beginning of creation until this time ;and in nothing did they sin,save in those things which they received not of me.
38 David's wives and concubines were given unto him of me by the hand of Nathan,my servant,and others of the prophets who had the keys of this power;and in none of those things did he sin against me,save in the case of Uriah and his wife;and therefore he hath fallen from his exaltation,and received his portion;and he shall not inherit them out of the world;for I gave them unto another, saith the Lord.
40 I am the Lord thy God,and I gave unto thee my servant Joseph,an appointment,and restore all things;ask what ye will,and it shall be given unto you according to my word.
41 And as ye have asked concerning the adultery,-verily, verily,I say unto you,if a man receiveth a wife in the new and everlasting covenant,and if she be with another man,and I have not appointed unto her by the Holy anointing,she hath committed adultery,and shall be destroyed.

42 If she be not in the new and everlasting covenant, and she be with another man,she hath committed adultery.
43 And if her husband be with another woman,and she was under a vow,he hath broken his vow,and ~~xxxxxxxxxxxx~~ committed adultery.
44 And if she hath not committed adultery,but is innocent,and hath not broken her vow,and ~~she~~ knoweth it,and I reveal it unto her,my servant Joseph,then shall you have power,by the power of my Holy Priesthood,to take her, and give her unto him that hath not committed adultery,but hath been faithful;for he shall be made ruler over many.
45 For I have conferred upon you the keys and power of the Priesthood,wherein I restore all things,and make known unto you all things in due time.
46 And,verily,verily,I say unto you,that what-so-ever you seal on earth,shall be sealed in heaven;and what-so-ever you bind on earth in my name,and by my word,saith the Lord,it shall be eternally bound in the heavens;and what-so-ever sins you remit on earth,shall be remitted eternally in the heavens;and what-so-ever sins you retain on earth shall be retained in heaven.
47 And again,verily,I say unto you,what-so-ever you bless,I will bless,and what-so-ever you curse I will curse, saith the Lord,~~a~~ for I the Lord,am thy God.
48 And again,verily I say unto you,my servant Joseph, that what-so-ever you give on earth,and to whom-so-ever you give any one on earth,by my word and according to my law,it shall be visited with blessings,and not cursings and with my power saith the Lord,and shall be without condemnation on earth,and in heaven.
49 For I am the Lord thy God,and will be with thee even to the end of the world,and through all eternity;for verily I seal unto you your exaltation,and prepare a throne for you in the kingdom of my Father,with Abraham,your Father.
50 Behold I have seen your sacrifices,and will forgive all your sins;I have seen your sacrifices in obedience to that which I ~~xx~~ told you;go,therefore,and I make a way for your escape,as I accepted the offering of Abraham, of his ~~xxx~~ son Isaac.
51 Verily,I say unto you,a commandment I given unto my handmaid,Emma Smith,your wife,whom I have given unto you, that she stay herself,and partake not of that which I commanded you to offer her;for I did it,saith the Lord,to prove you all,as I did Abraham;and that I might require an offering at your hand,by covenant and sacrifice:
52 And let mine hand maid Emma Smith,receive all those that have been given unto my-servant Joseph,and who are virtuous~~x~~ and pure before me;and those who are not pure, and have said they were pure,shall be destroyed,saith the Lord God.
53 For I am the Lord thy God,and ye shall obey my voice; and I give unto my servant Joseph that he shall be made a ruler over many things for he hath been faithful over a few things,and from henceforth I will strengthen him;
54 And I command mine handmaid,Emma Smith,to abide and cleave unto my servant Joseph,and to none else.But if she will not abide this commandment,she shall be destroyed,saith the Lord;for I am the Lord thy God;and will destroy her,if she abide not in my law.
55 But if she will not abide this commandment,then shall my servant Joseph do all things for her,even as he hath said;and I will bless him and multiply him,and give unto him an hundred fold in this world,of fathers and mothers,brothers and sisters,houses and lands,wives and children,and crowns of eternal lives in the eternal worlds
56 And again verily I say,let mine hand maid forgive my servant Joseph

his trespasses;and then shall she be forgiven her trespasses,wherein she has trespassed against me;and I,the Lord thy God,will bless her, and multiply her,and make her heart to rejice.
57 And again I say,let not my servant Joseph put his property out of his hands,lest an enemy come and destroy him;for Satan seeketh to destroy;for I am the Lord thy God,and his arm is upon him;and behold I give unto him a name which is above every name, that at the name of Jesus every knee should bow, of things in heaven, and things on earth, and things under the earth, and that every tongue should confess to him that I am the Lord to the glory of God the Father. Amen.
58 Now,as touching the law of the Priesthood,there are many things xxxxxxxx pertaining thereunto.
59 Verily,if a man be called of my Father,as was Aaron by mine own voice,and by the voice of him that sent me, and I have endowed him with the keys of the power of this Priesthood,if he do anything in my name,and according to my law,and by my word,he will not commit sin, and I will justify him.
60 Let no one,therefore,set on my servant Joseph,for I will justify him;for he shall do the sacrifice which I required at his hands;for his transgressions saith the Lord your God.
61 And again as pertaining to the law of the Priesthood; if any man espouse a virgin,and desire to espouse another, and the first give her consent;and if he espouse the second and they are virgins,and have vowed to no other man, then is he justified;he cannot commit adultery for they are given unto him;for he cannot commit adultery with that that belongeth to him,and to no one else.
62 And if he have ten virgins given unto him by this law ,he cannot commit adultery for they belong unto xxxx him, and they are given unto him,therefore,is he justified.
63 But if one,or either of the ten virgins,after she is espoused,and be with another man;she has committed adultery and shall be destroyed for they are given unto him to multiply and replenish the earth according to my commandment,and to fulfill the promise which was given by my Father before the foundation of the world;and for their exaltation in the eternal worlds,that they may bear the souls of men;for therein is the work of my Father continued,that he may be glorified.
64 And again,verily,verily I say unto you,if any man have a wife who holds the xxxxxxxxx keys of this power,and he teaches unto her the law of my Priesthood, as pertaining these things,then shall she believe,and administer unto him,or she shall be destroyed saith the Lord your God,for I will destroy her;for I will magnify my name on all those who receive and abide in my law.
65 Therefore,it shall be lawful in me,if she receive not this law,for him to receive all things,whatsoever I, the Lord his God,will give unto him,because she did not administer unto him according to my word;and then she becomes the transgressor;and he is exempt from the law of Sarah,,who administered unto Abraham according to the law,when I commanded xx Abraham to take Hagar to wife.
66 And now as pertaining to this law,verily,verily,I say unto you,I will reveal more unto you hereafter,therefore,let this suffice for the present. Behold I am Alpha and Omega. Amen.

Witness fees xxx xx $1,50 paid by the defendants.

It being impossible to complete the taking of the depositions herein on this day,the further taking oof the the same was continued until Friday the 18th day of March 1892 at the hour of 9,30 o'clock A.M. then and there at that time to be continued at the place in that behalf first aforesaid.

Now on this 18th day of March 1892 at the hour of 9.30 A.M.

the same being on Friday, come the parties hereto as aforesaid, and the further taking of depositions herein was proceeded with, pursuant to adjournment.

Mercy Rachel Thompson, of lawful age, being sworn on the part of the defendants herein, testified as follows, to wit-

(By agreement of the parties hereto as aforesaid, the deposition of the above named witness was taken at her residence Number 108 North 2nd, West Temple Street.)

Direct examination by Mr. Hall.-

I Q:-Mrs. Thompson, where do you live? A:-What do you mean? You will have to speak plainly, for I am hard of hearing, and I am getting old too.

2 Q:-I asked you to state to the reporter where you resided at the present time? A:-At 108 north second West.

3 Q:-In what City? A:-In the city of Salt Lake City.

4 Q:-What territory or state? A:-In the territory of Utah Territory.

5 Q:-Where did you live before coming here? A:-Before coming here I lived in Illinois.

6 Q:-In what part of Illinois? A:-At Nauvoo.

7 Q:-Can you state to the reporter how long you lived there? A:-We went west in '38 and we left there in '46 wasn't it,-yes it was in '46, for we left when all the rest did. I went to Nauvoo in '38 and left in '46 -then all the rest did, for we all left there, or nearly all of us in '46. That is the time that I believe the Latter Day Saints all left Nauvoo and came out west.

8 Q:-It was in '46 that you left Nauvoo? A:-Yes sir, it was in '46.

9 Q:-Can you state definitely just about the time you went there? A:-To Nauvoo?

10 Q:-Yes ma'am? A:-It was in '38. I know it was in '38 that we went there, and as near as I can remember it was about April or May. It was in the spring anyway, and I think it was either April or May as near as I can remember.

By Mr. Joseph W. Smith,-"Allow me to say to refresh your memory that we were driven from Missouri in 1838."

By Mr. Kelley,-"Well I object to your refreshing her memory. She is on the witness stand now, and let her testify to the best of her recollection."

A:-We left Missouri in 1838,-that is we were driven from Missouri then, and we began leaving in February, I think it was of 1839. You must remember that I am a very old lady now, and I don't remember these things as well as I used to remember them.

By Mr. Hall,-

11 Q:-You stated,-or you state now that you left Missouri in 1839? A:-Yes sir.

12 Q:-Then where did you go to? A:-We went to a place at that time called Commerce, but it was afterwards called Nauvoo, and it was in Illinois.

13 Q:-Do you say you left Missouri in 1839, about what time was it, after you left Missouri that you arrived in Illinois? A:-It was in the same year that ~~we~~ we left Missouri.

14 Q:-Well what time in the year would it be that you arrived in Illinois? A:-Well it would be in April or May as I said before,-I can't tell exactly, it was, but it was about that time.

15 Q:-And you moved to a place at that time called Commerce? A:-Yes sir that was its name at the time that we went there, but after we were there a while the name was changed to Nauvoo, and that was

the name it went by, Nauvoo, as long as we were there, and is yet for all I know to the contrary.

16 Q:-The name of Commerce was changed to Nauvoo, after you went there? A:-Yes sir, and that was the name it went by afterwards.

17 Q:-State to the reporter what church, if any, you were a member of at that time? A:-I was a member of the Mormon church.

18 Q:-Can you state what the name of the church was? A:-Well it was the Church of Jesus Christ of Latter day Saints.

19 Q:-I will ask you to state what you know in regard to the principle of plural marriage, or as it is sometimes called, polygamy, being taught or practiced in the church at Nauvoo, Illinois, while you were there?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and there is no issue in this case upon which such a question could be based.

20 Q:-Answer the question please? A:-I don't hear very well, and I will have to ask you to repeat your question again.

21 Q:-I asked you to state what you knew about the principle of plural marriage, or what is commonly called polygamy, being taught and practiced in the church there at Nauvoo during the time that you was there? A:-Well it was not either taught or practiced until along about '41 or '42,-I could not say which,-but it was never taught or practiced until about that time. If it was I never heard anything of it at all. If it was practiced before that I never heard anything of it at all.

22 Q:-I don't think you understand the question Mrs. Thompson,-the question is, state what you know about this doctrine of plural marriage, which is sometimes called polygamy, being taught and practiced in the church of Jesus Christ of Latter Day Saints, while you were living at Nauvoo, Illinois?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and on the further ground that there is no issue in this case upon which the question could be predicated.

A:-Well, while we were living there it was taught and practiced of course,-that is, it was generally understood that it was.

Counsel for the plaintiff moves the court to exclude the answer of the witness from the record on the ground that it is not responsive to the question, and is incompetent and irrelevant.

23 Q:-Can you give any instance in which you know it was taught and practiced?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and leading.

A:-Yes sir, I certainly can, for the prophet Joseph Smith taught me that principle himself, both publicly and domestically, or privately,-that is in the domestic circles, and I knew it was being worked. I knew it of my own knowledge,-both taught and practiced.

24 Q:-Can you state how you know it was practiced?

A:-Yes sir.

25 Q:-Well do so please?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading, and is incompetent, irrelevant and immaterial, and a cross examination of defendants' own witness by defendant.

26 Q:-I will change that question, and ask you to state to the reporter how you know it was practiced?

Counsel for the plaintiff objects to the question on the

grounds above set forth.
A:-Well must I say that I really saw and heard ceremonies to that effect to prove that I know it was practiced, or must I state what I was told plainly and positively by friends, and those who knew positively what they were talking about, and knew all the circumstances, some of who were living in the practice at the time?
By Mr. E. L. Kelley,-"Just state what you know about it of your own knowledge, and that is all."
By Mr. P. P. Kelley,-"I move to exclude the last answer of the witness as immaterial, and hearsay."
A:-Well, the prophet himself told me it was a true principle, and was taught in the bible,-in the old bible,-and I believed it of course, because I could read it for myself in the bible and see that it was practiced in those days, and the Lord approved of it and sanctioned it, and I believed it was right of course, and believed what the prophet taught me, and he taught me that.
Counsel for the plaintiff gives the court to exclude the answer of the witness from the record for the reasons above given.
By Mr. E. L. Kelley,-"As Mr. Smith is sitting in the room and is constantly prompting the witness, I wish the record to show that fact, and I will state that while we have no disposition to shut Mr. Smith out from where this testimony is being taken, yet if he does not cease his prompting we must decline to proceed with the examination of this witness at this place, and continue it at a place where it would be more proper for us to insist upon our legal right to have the testimony of the witness taken without any prompting. We came down here to accomodate Mr. Hall and the witness, and we desire that we be accorded fair play. I will say further that if Mr. Smith is to take any part in this examination either as counsel or party to it, we have no objection, only we desire the record to show that fact."
A:-I would desire to ask the privilege of having my nephew correct any dates or anything of that kind that I make a mistake in. I am a very old lady now, and my memory is failing me, and I can't remember the dates as I once could.
By Mr. Hall,-
27 Q:-State to the reporter whether or not you ever witnessed, or were present when any one at all was married as a plural wife to any person or member of the church at Nauvoo?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial.
A:-Well I don't know but what I might say I did, for the real truth is I practiced it myself, and I have no better proof than that I guess.
28 Q:-Well that is the best evidence,-?
By Mr. P. P. Kelley,-"We move to exclude the declaration of Counsel Hall as incompetent and immaterial."
By Mr. Hall,-
29 Q:-State to the reporter whom you were married to as a plural wife?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial.
A:-I was married to brother Hyrum Smith.
30 Q:-State to the reporter who performed the ceremony?
Counsel for the plaintiff objects to the question for the reasons above given.

A:-The prophet Joseph Smith,his brother.
Counsel for the plaintiff objects to the answer of the witness,and moves the court to exclude it from the record for the same reasons.
31 Q:-Now you may state to the reporter who it was taught you the principle of plural marriage?
Counsel for the plaintiff objects to the question on the ground that it is incompetent,irrelevant and immaterial.
A:-The prophet of course. He was the one that introduced it to me,and he was the one that taught the principle of plural marriage to me first,and I heard him teach it to others. He taught it to me I know, and he sent to others,for my sister was the first one that came to me and spoke to me about being sealed to Hyrum Smith.
32 Q:-Which sister was it that spoke to you? A:-That was my sister Mary that spoke to me about it?
33 Q:-State to the reporter the fact as to whether or not you ever saw a paper or document purporting to be a revelation on that subject?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not the best evidence.
A:-Yes sir,I saw it and read it,and had it in my possession for quite a little while.
34 Q:-I will ask you to state to the reporter what difference there is,if any,in the revelation which you have read in Nauvoo,Illinois,and the revelation as it is published in the book of Doctrine and Covenants of the church here in Utah?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent,irrelevant and immaterial and leading.
A:-I don't know of any difference at all. I have read it and re-read it,and I don't know of any difference at all in it.
35 Q:-Can you state to the reporter the date of your marriage to Mr. Smith?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A:-Yes sir.
36 Q:-What was the date? A:-It was the 11th of August 1843.
37 Q:-Can you state the names of any of the witnesses that were present? A:-At the time we were married?
38 Q:-Yes ma'am?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A:-They are all dead.
39 Q:-I asked you if you could remember the names of any of the witnesses that were present? A:-Yes sir.
40 Q:-Who was present?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial.
A:-Well my sister of course was present,but she is dead now,and there is no one alive at all now that was present,for they are all dead.
41 Q:-Will you give the name of your sister that was present to the reporter? A:-I have given it before,-it was Mary Smith.
42 Q:-Will you state to the reporter whether you lived with Hyrum Smith as his wife,within the meaning of all the word "wife" implies?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent,irrelevant and immaterial and leading.
A:-Yes sir,I did.

43 Q:-Well that is all?

Cross examination by Mr.P.P.Kelley,-

44 Q:-Did you ever live at Kirtland Mrs.Thompson?
A:-No sir.

45 Q:-You did not live at Kirtland? A:-No sir,I did not live there,-that is I had no residence there,but I have been there a few times,but I never had any residence there.

46 Q:-You became a member of the church about I830 or '32 I believe you said? A:-No sir,I didn't say that. It was in '36 that I became a member of the church.

47 Q:-In I836 you became a member of the church then?
A:-Yes sir,it was in '36 that I joined the church.

48 Q:-Where abouts did you become a member of the church?
A:-In Upper Canada,as it was called at that time.

49 Q:-Did you ever live in Missouri? A:-Yes sir.

50 Q:-Where abouts in Missouri did you live?? A:-I lived at Far West,Missouri at the time of the persecution there.

5I Q:-Did you ever live in Jackson County,Missouri?
A:-No sir,it was in Caldwell County I lived.

52 Q:-What time did you live at Far West,Missouri?
A:-I landed there on the 3rd day of June I838.

53 Q:-Was there a conference held at Far West in I838 after you came there? A:-Well I couldn't say, I presume there was,but I don't recollect particularly about it. I presume there was,but I have no distinct recollection about any conference that was held there at that time,but I presume there was.

54 Q:-You don't recollect anything about that?
A:-Not about that conference you asked me about.

55 Q:-Well do you recollect whether one was held or not?
A:-Well I say I presume there was,but I don't know for I would not be able to be out at that time anywhere.

56 Q:-Had you been married at that time? A:-Yes sir.

57 Q:-You were married then? A:-Yes sir.

58 Q:-What was your husband's name? A:-Robert Blashel Thompson.

59 Q:-When were you married to Mr.Thompson? A:-I was married to him on the 4th of June I837.

60 Q:-The fourth of June I837 you were married to Mr. Thompson? A:-Yes sir.

6I Q:-Up in Canada you were married to him? A:-No sir.

62 Q:-Where were you married? A:-I was married in Kirtland.

63 Q:-In Kirtland,Ohio? A:-Yes sir,we went over there and were married there.

64 Q:-Who performed the ceremony? A:-The prophet.

65 Q:-Joseph Smith? A:-Yes sir.

66 Q:-Do you remember the ceremony that was used?
A:-Yes sir.

67 Q:-Well what was it? A:-It was nothing more than the ceremony that I have always been accustomed to seeing and hearing performed. It was the same ceremony that I have always heard performed at marriage ceremonies.

68 Q:-Was it the ceremony that is prescribed by the church? A:-Yes sir,I presume so.

69 Q:-Was it the ceremony as prescribed by the church as is set forth in the book of Doctrine and Covenants?
A:-Yes sir,I presume so.

69 Q:-Was it the ceremony prescribed by the church,as is set forth in the Doctrine and Covenants? A:-Yes sir I presume so. I never paid much attention to it for the reason that I knew it was the right ceremony,or he would not have performed it. I never examined it particularly,because I knew that he would do it right.

70 Q:-You were married in the temple? A:-No sir.

71 Q:-Where were you married? A:-Well it wasn't in the temple. It was in a private house,-I forgot the name of the man,-let me see,his name was,-well I can't just now remember his name,and it was in a private house,-

By Mr.Smith,-"You need not mind his name,-they did not ask you for the name of the man's house you were married in." A:-Well it was in a private house,and I forget the name.

By Mr.Kelley,-

72 Q:-You can't now remember the name of the party whose house you were married in? A:-No sir.

73 Q:-But your best recollection is that the ceremony that was used on that occasion,was the ceremony prescribed in the book of Doctrine and Covenants? A:-Yes sir,it was nothing else.

74 Q:-Well now many children did you have by that union? A:-Just one,-this one (referring to her daughter who is in the room.)

75 Q:-That was all? A:-Yes sir.

76 Q:-When was she born? A:-On the 14th of June 1838.

77 Q:-What is her name? A:-Mary Jane Thompson.

78 Q:-Then as I understand you,you left Far West,Missouri early in the year 1839? A:-Yes sir.

79 Q:-What time? A:-In February.

80 Q:-Where did you go then? A:-I went direct to Commerce, Illinois. No at first we went directly to Quincy,and stayed there until the prophet was liberated from prison.

81 Q:-Then you went directly to Commerce,Illinois? A:-Yes sir,as soon as a place was provided for us.

82 Q:-Was your husband living at this time,and with you? A:-My husband was driven from his home and came to Quincy,and was pursued by the mob,-

83 Q:-I asked you if your husband was living at the time? A:-What time do you mean?

84 Q:-Was he living with you from the time that you left Far West,Missouri,until the time that you arrived at Commerce,Illinois?? A:-Yes sir,he was living then.

85 Q:-How long did he live after you got to Commerce? A:-He lived a few years,-he dies on the 27th of August 1841.

86 Q:-Now are you pretty sure that Commerce,-the town of Commerce,and what was afterwards the city of Nauvoo, were the same place? A:-Yes sir.

87 Q:-And located on the same ground? A:-Yes sir. They were the same. After the saints got there the name was changed to Nauvoo.

88 Q:-You don't think they were about ten miles apart? A:-What?

89 Q:-The two places,-Commerce and Nauvoo? A:-No sir,I know it was not. They were all one.

90 Q:-All one town? A:-Yes sir.

91 Q:-Where did you live after the death of your husband in '41? A:-I lived in Nauvoo.

92 Q:-With whom? A:-Until,-

93 Q:-With whom? A:-Whom did I live with?

94 Q:-Yes,with whom did you live or reside after the death of your husband? A:-I lived with my sister after her husband was martyred.

96 Q:-What was your sister's name before she was married? A:-Mary Fielding.

96 Q:-Was she married in '41 before your husband died? A:-Yes sir.

97 Q:-When was she married? A:-She was married in December '37.

98 Q:-What was her husband's name? A:-Hyrum Smith.

99 Q:-Your sister was the first wife of Hyrum Smith? A:-No,no,his first wife was dead,and he married her. His first wife died and he married her.

100 Q:-When did his wife die? A:-His first wife?

101 Q:-Yes madam,-when did she die? A:-I could not tell you the date that she died.

102 Q:-She died before he married your sister? A:-Yes sir.

103 Q:-You lived with your sister and Hyrum Smith from the time that your husband died,until the time that Hyrum Smith was killed? A:-No sir,my first husband was dead nearly two years before I married Hyrum Smith.

104 Q:-You don't hear my question,-my question is did you live with Hyrum Smith and your husband,-Hyrum Smith are your sister I should say,after the death of your husband,until 1844,when Hyrum Smith was killed? A:-Yes sir.

105 Q:-In the same house? A:-Yes sir. After I married Hyrum Smith I moved and lived there,but I lived in my own house by myself for a year after my husband died.

Counsel for the plaintiff desires the record to show that the witness in making this answer was constantly prompted by the daughter of the witness and family of Joseph F.Smith; and the examiner states that to quite a number of questions asked the witness,in the answers made thereto,the witness is prompted to make her answer in a certain manner. The witness is a very old lady,and appears to be very feeble and rather deaf,and complains of a failing memory,which is the explanation the parties above named offer for their prompting the witness; but they are warned by the examiner that they must desist from saying anything at all to the witness during the progress of this examination.

106 Q:-Let me understand you Mrs.Thompson,-after the death of your husband,you lived alone in your own home for about one year? A:-Yes sir,for a little over a year.

107 Q:-Well how much over a year did you live alone in your own house after your husband died? A:-Well,my husband died in August 1841,-well it was two years of course,for I was married to Hyrum Smith on the 11th of August. It was just about two years after my husband's death.

108 Q:-You lived in your own house alone then for two years after your husband's death? A:-Yes sir.

109 Q:-From 1841 in the month of August when your husband died,until the 11th of August 1843 when you married Hyrum Smith? A:-Yes sir.

110 Q:-Well who lived with you during that time? A:-Well different hired girls that I had,for I kept boarders sometimes.

111 Q:-Was there any of your family lived with you during that time? A:-Well of course my own child did,for she was a child at that time and lived with me; and for about four months my brother and his family lived there with me also.

112 Q:-What time was that?
A:-Well I don't know that I could tell the exact time my brother migrated ~~from~~ to America ~~to~~ from England,and of

course he had no place to go to,he came to my house and lived with me until he got a place. He had no place when he first came there,and so he came and stayed with me for about four months,but I can't tell you whether it was the year before I moved over to brother Hyrum Smith's house or not. I can't tell anything about it,but I think it was in the first year after my husband died that he was living there with me.

II3 Q:-You were acquainted with the laws of the church up to that time were you not? A:-Yes sir.

II4 Q:-And up to the time of the death of Joseph and Hyrum Smith? A:-Yes sir. Certainly I was to some extent.

II5 Q:-And attended the conferences? A:-Yes sir. My husband at that time was private secretary and clerk to the church.

II6 Q:-Well I am not asking about that,and I move to exclude that from the record as not responsive to the question asked. Now in your examination by Mr. Hall,you stated that you heard Joseph Smith publicly teach the doctrine of polygamy,and advocate its practice? Now where did you ever hear him preach or teach that doctrine publicly? A:-Now let me see,-did I ever say,-did I say"publicly"? If I said "publicly" I did not mean that it was out on the stand or in the pulpit,but I meant that it was not taught to me alone,but to me along with others. You know I was not at many of their public meetings,and I can't say what he preached at the meetings I was at,but I have heard him teach it and explain it to several at a time in private when I was present.

II7 Q:-If you used the word "publicly" then you were wrong in that statement? A:-Well now suppose I had a number of friends in the house,-just in the family circle,and it was taught to us that way,-should I call that public or private. That was the way it was taught to us,and you can call it what you like.

II8 Q:-Well now you will have to determine that question, for you are the witness? A:-Well now that is all I mean by public,-that is the way it was taught when I heard it,and if that is ~~XXXXXX~~ public,then it was taught publicly.

II9 Q:-Then you never heard him preach or teach it from the pulpit at all? A:-No sir. Not before that time.

I20 Q:-At any time did you? A:-I can't say that I did only in that way,-in the family circle.

I2I Q:-Or to any considerable number of people? A:-No sir not at that time.

I22 Q:-Did you ever at any time? A:-What?

I23 Q:-Hear him teach it from the pulpit publicly? A:-Well now you know it was only a short time after that that he was killed.

I24 Q:-Will you answer my question,-did you ever hear Joseph Smith teach the practice of polygamy from the pulpit,at any time,or at any place? A:-I don't know that I really did. Only I well remember of his preaching and mentioning some things on that subject but not in the way of preaching or teaching us to practice it.

I25 Q:-You never heard Joseph Smith teach the practice of polygamy as is taught in the purported revelation on polygamy,that is now to be found in the book of doctrine and covenants published under the authority of the Utah church? A:-Before I was married?

I26 Q:-No madam,-I am not asking you about any time or place,either before or after you were married,or at any other time whatever? A:-No,I don't know that I ever did.

I27 Q:-~~XXXX~~ Who was present at any time when you heard him

preach the practice of the doctrine of polygamy,-at any time or place not? A:-Who was present when he preached it?

I28 Q:-Yes,at any time or place? A:-Well his own wife was there,and my sister.,and I don't remember then all that were there,but I remember those were there.

I29 Q:-Was there any more than that? A:-I think there was

I30 Q:-Well who were there? A:-I think there was,but I cannot be positive about it. I am pretty sure there was,but that is something about which I cannot be positive.

I31 Q:-What time was that? A:-That I heard him teach that?

I32 Q:-Yes sir,-was it as early as 1840? A:-No sir.

I33 Q:-It was not as early as 1840 then? A:-No sir. I told you before that I did not hear anything about it before 1841 that I recollect anything of.

I34 Q:-Well then,do you recollect of its being taught as early as 1841? A:-No,I would not say that.

I35 Q:-You would not say that you heard it taught as early as 1841? A:-No sir. I would not say that I heard it earlier than 1842,for I think it was about that time that I heard of it.

I36 Q:-Did you hear it taught in 1842? Will you say that you hear it taught in 1842? A:-Yes sir,I heard it taught then.

I37 Q:-You heard it taught in 1842? A:-Yes sir.

I38 Q:-Who did you hear it taught by? A:-By the prophet. But it was not made a public subject of discussion until late in 1842,-near the end of the year. Now gentlemen I am tellin you according to the best of my knowledge,and I would not be willin to say any thin here that I would not be willin to swear to before the Lord,and I am not here to say anything else.

I39 Q:-Are you willin to swear now before the Lord that Joseph Smith taught you that in 1842? A:-In 1842.

I40 Q:-Yes? A:-It would be the latter part of 1842,-it would be the latter end of '42,or the early part of '43,-I wouldn't dare to say just which it was.

I41 Q:-Well are you willin to swear before the Lord,that he taught it to you either in '42 or '43,-at any rate durin those years? A:-Yes sir.

I42 Q:-You are willing to do swear before the Lord? A:-Yes sir,I am willin to swear to that.

I43 Q:-Now where was it? A:-Right in my own house.

I44 Q:-Who was present? A :-And in his own house too.

I45 Q:-Who was present when he talked to you about it to you in your own house? A:-Well he came to see and talked to me about it,and at that time I don't recollect that there was anybody in particular present. I rather think that at that time we were alone.

I46 Q:-Then it was a private conversation between you and him?A-Yes sir,for you know he was in the habit of coming in and out of the housestanding as he pleased and that is the way he came to my room and talked to me about it.

I47 Q:-Well I don't know that,-you say I know it,and I don't know it. A:-Well I want you to understand sir, that there was nothing strange in his being there, and in his speaking to me about it as he did.

I48 Q:-Did you say that you had private conversations with him at his own house about this matter of polygamy? A:-No sir. Only when my sister was present.

I49 Q:-That is the only way he ever taught it to you,by

private conversations between yourselves,was it,-
that is between you and himself,and between him and
you and your sister? XXXXXXXX Now is that not the
fact about it? A:-Well I would have to think a lit-
tle before I could answer that question.
I50 Q:-Well take all the time you want to,to answer the
question? A:-Of course I am acquainted with circum-
stances,but then I would not want to swear to any
thing I really did not see.
I51 Q:-Well the question was if that was not,-if that was
not the only manner in which Joseph Smith taught
you XXXXXXX the practice of polygamy,,if it was not
in private conversations between him and yourself on
the one hand,and between him and yourself and your
sister? A:-Well I think I have heard him preach it
and teach it to a larger and more public congrega-
tion than that,though of course I cannot say posi-
tively,but I think I have.
I52 Q:-Are you willing to swear now before the Lord that
you ever heard him teach it, in a more public,-that
is a congregation more public than the congregation
composed of himself,yourself and your sister?
A:-No sir.
I53 Q:-You would not be willing to swear to that before
the Lord? A:-No, sir,I would not be willing to swear
to it,but I believe I did. A person may believe many
a thing that they cannot swear to you know.
I54 Q:-Well you would not swear to that? A:-No sir. I
don't want to,but there is a great many things I
know that I don't want to swear to.
I55 Q:-Now you say you believe itS A:-Yes sir,I believe it.
I56 Q:-Well what makes you believe it,if you don't want to
swear to it? A:-Well it because I think it is possi-
ble that I might have heard some things and forgot-
ten them.-
I57 Q:-Well you don't think it is probable do you?
A :-Well I know that he practiced it.
I58 Q:-You say he practiced it? A:-Yes sir.
I59 Q:-Do you state that of your own knowledge?
A:-Yes sir.
I60 Q:-Now to go back to the question I have asked you,
and which you failed to answer,-you do not think it
is probable that you ever heard him preach it or
teach it rather,to a more extensive audience than
yourself and your sister? A:-I think I did,but I say
I would not be positive about it.
I61 Q:-You said you were married to Hyrum Smith?
A:-Yes sir.
I62 A:-Now how were you married to Hyrum Smith? A:-I was
married to him by the prophet.
I63 Q:-By "the prophet" you mean Joseph Smith?
A:-Yes sir.
I64 Q:-Was there a marriage ceremony used on that occa-
sion? A:-Certainly.
I65 Q:-Well what ceremony was used? A:-The same that was
used on the other occasion.
I66 Q:-The same ceremony was used when you married Mr.
Smith that was used when you married Mr.Thompson,-is
WHAT that what you wish to be understood as saying?
A:-What is the question?
I67 Q:-The prophet used the same ceremony at the time
that you married Hyrum Smith,that he used at the time
that you married Mr. Thompson? A:-Yes sir.
I68 Q:-The same identical ceremony? A:-Yes sir. So far as
I know it was the same.
I69 Q:-And no more? A:-Well now I don't know that I will
be able to explain it. I can't say that I will be
able to explain just how that was.

170 Q:-You don't know that you will be able to explain it?
A:-No sir, for In this case it was a proxy case.
171 Q:-What did you mean by that? A:-Well I mean that it was a case where there was a proxy in it.
172 Q:-In the marriage ceremony? A:-Yes sir.
173 Q:-I thought you said it was the same as the ceremony that was used on the occasion of your marriage to Mr. Thompson? A:-Well it was with a little difference.
174 Q:-Do you mean to say that you were married to Hyrum Smith by proxy? A:-He made an aggreement that he would deliver me up on the XXXXX morning of the day of the resurrection to my husband Robert Blashel Thompson, but he would take charge of me for life, with the aggreement to deliver me up to my husband on the morning of the resurrection.
175 Q:-That is what you mean by a marriage by proxy?
A:-Yes sir.
176 Q:-Now were you not simply sealed to Hyrum Smith?
A:-I was married to him for time, to be delivered up by him to my own husband on the morning of the day of the resurrection.
177 Q:-That is what you call or has been taught in the church here in Utah as sealing, is it not,-sealing for time only, and not for time and eternity?
A:-We call it sealing when we are married in that way because we are only married for time and not for eternity,-we are sealed in the first instance for time and for all eternity, and that was the way it could be with my first husband, but with Hyrum Smith when I was married to him I was only married for time, and in eternity on the day of the resurrection he agreed to deliver me up to my husband.
178 Q:-And the agreement on the part of Hyrum Smith when you were married as you call it, was that he would take charge of you for time, and in eternity he would deliver you up to your husband, Thompson? A:-Yes sir.
179 Q:-Was he to deliver the children up too? A:-If we had any he would, but we didn't have any, for you know he was murdered soon after that.
180 Q:-This was in 1843 when you were married to him, was it not? A:-Yes sir.
181 Q:-In August 1843? A:-Yes sir.
182 Q:-On the 11th day of August, I believe you stated?
A:-Yes sir, and in June 1844 he was massacred.
183 Q:-It was almost a year that you was married to him?
A:-Yes sir.
184 Q:-Was there any children from that sealing, or marriage?
A:-No sir. I told you there wasn't any.
185 Q:-Is this the only child you ever had, that is living here with you now? A:-Yes sir.
186 Q:-Then the ceremony on the part of Hyrum Smith was, that he would take charge of you during your life here on earth, and deliver you up together with whatever children might be raised as the fruits of the union between you and he, to your husband Thompson in eternity? A:-Yes sir, that is it exactly.
187 Q:-By what law of the church was that marriage made?
A:-What is that? I don't hear very well?
188 Q:-By what law of the church was that marriage made and entered into? A:-By a law that was given to the prophet from the Lord. You know of course that he was a prophet of the Lord, and a law giver, and whatever the Lord gave to him or to the church through its prophet, was the law of the church.
189 Q:-Well don't appeal to me-for I don't know anything

about it. I don't pretend to know anything about it, only incidentally for the purposes of this case, and that is all. A:-Well I am speaking to you of the fact that he was ~~XXXXXXXXXX~~ the law giver,-

190 Q:-Who was the law giver? A:-Joseph the prophet was. He was the law giver, and whatever he said was a law unto us.

191 Q:-He was a law unto you? A:-Yes sir.

192 Q:-In what respect? A:-Whatever he told us came from the Lord we accepted, and when he said that the word of the Lord was thus and so we knew it was so and believed it, without witnessing it ourselves, for we knew that he would not tell us that anything came from the Lord that did not come from the Lord.

193 Q:-You were bound to believe it? A:-Of course we believed it, and we believed it honestly too.

194 Q:-You were bound to believe it? A:-I don't know that we were bound to believe it, but we did,-that is a certainty.

195 Q:-Well was it, a law of the church at the time that you married Hyrum Smith, that a man might have more wives than one? A:-Of course it was or I wouldn't have married him.

196 Q:-Where is that law? A:-The law was in the prophet,- the voice of the Lord speaking through the mouth of the prophet Joseph Smith, and he declared that that was the law.

197 Q:-That was the law then? A:-Yes sir, and I don't know that we heeded any other law.

198 Q:-Had it ever been adopted by the church as a law? Counsel for the defendants objects to the question asked the witness on the ground that the witness has stated that there was no action taken on it, and on the further ground that the question is immaterial and irrelevant, and not proper cross examination.
A:-There are some things that I know that I hardly think it is necessary to explain, for I don't think you would hardly understand about them if I did explain them to you.

By Mr. Smith,-

199 Q:-Answer the questions the best you can. He is only asking you upon certain points, and he expects that you will answer them if you can. He expects you to answer the questions he asks you if you can, and you need not tell anything only what you know, and in reply to the questions he asks you. Now she does not understand her duty here on the witness stand and that is the reason I make this explanation to hr.

By Mr. Kelley,-

200 Q:-That is all right. Now was it the law of the church when you married Hyrum Smith, that a man could have more wives than one? A:-Yes sir.

201 Q:-It was the law of the church at that time? A:-Yes sir.

202 Q:-When was that law accepted by the church if you know? A:-I don't know sir. I would not venture to tell that.

203 Q:-Was it been accepted by the church at all? A:-Of course it had after it was practiced.

204 Q:-Well had it been accepted in 1843 at the time that you married Hyrum Smith? A:-Yes sir.

205 Q:-What time? A:-I couldn't tell you exactly what time it was, but it was before that though.

206 Q:-What makes you say it was accepted by the church? A:-I suppose it was accepted by the church when they got the revelation.

207 Q:-Well do you know whether it was or not? A:-Of course I do know.

208 Q:-Well was it ever presented to the church for acceptance or rejection? A:-For what?
209 Q:-I asked you if to your knowledge it was ever presented to the church for acceptance or rejection? A:-Yes sir,Of course it was.
210 Q:-Where? A:-Well of course that I could not tell you for I was not always present when these matters were attended to.
211 Q:-Were you present when it was presented to the church for acceptance? A:-Well not at any time in particular,but I knew it was presented and accepted.
212 Q:-Well were you present when it was presented to the church for acceptance? A:-Not publicly.
213 Q:-Was it ever presented to the church publicly,as the law of the church ,or for acceptance? A:-Well that is a question that I would have to consider some time before I could undertake to answer it. That is a question I would have to consider some time before I could answer it.
214 Q:-That is a question that requires consideration before you could answer it you say? A:-Yes sir.
215 Q:-Well you may consider it while I ask you some other questions? Now do you say that the revelation that is commonly called the revelation on polygamy was ever presented at any time or place to any branch of the church-or to the church as a whole,for adoption or rejection before 1844? A:-I cannot say. Well now I would not like to answer that ,for that is some thing that the high council would know about,and I did not attend that you know.
216 Q:-Well you are on the witness stand and I would like you to tell what you know about that? A:-Well it was presented before the high council of the church.
217 Q:-Were you there? A:-I was not there,but brother Allen Smith was there,and he told me that it had been. He handed me the revelation and told me that he had been there and it had been presented and had been adopted by the church.
218 Q:-You know it was done?
219 Q:-What date was that? A:-I can't tell you the date.
220 Q:-You cannot tell the date? A:-No sir,not the exact date.
220 Q:-Well was it in 1842? A:-No sir.
221 Q:-It was not in 1842? A:-No sir.
222 Q:-How do you know it was not? A:-Well I know it was not then.
223 Q:-Was it AS early as 1842? A:-The time I refer to was in '43 some time,but I don't know the month.
224 Q:-Well it was before August 1843 was it not? A:-Yes sir,of course it was,for that was the time I was married to Hyrum Smith,and it was before that I know.
225 Q:-How long before? A:-I don't know.
226 Q:-Well about how long before that was it? A:-I don't know. I could not tell you I say,for I don't know.
227 Q:-It was presented to the church before anybody was permitted to be married to a second wife was it not? A:-Yes sir,of course.
228 Q:-You are positive of that? A:-As far as I know it was.
229 Q:-Well do you know anything about it? A:-I know there was not anything of the kind done until it was presented and accepted.
230 Q:-Anything of what kind? A:-Anything in the way of being married according to the revelation.
231 Q:-Now you stated that it was presented to the high counhil? A:-Yes sir.
232 Q:-Do you know whether or not it was accepted by the council? A:-Yes sir,they did of course.

233 Q:-And voted on it? A:-Well you see that is something that I don't know, for I was not present at the time in the room, and I don't know what they did.

234 Q:-How do you know it was presented if you was not there? A:-Because brother Hyrum came right home from the council, and told us that it had been presented there, and had been accepted. He told us about it, and he was present himself.

235 Q:-Present at the council you mean? A:-Yes sir.

236 Q:-Did he tell you that it had been voted upon? A:-I did not ask him.

237 Q:-Well did he tell you without your asking him? A:-I don't think he did. I don't remember his saying anything about that, but I suppose it was.

238 Q:-Did he say it had been accepted? A:-Of course it was.

239 Q:-Well did he say so? A:-Of course he did. He came right home from the council and told us, and my sister and I were right there and heard him.

240 Q:-And he handed the revelation to you? Now whose handwriting was it in? A:-I guess as far as I know that it was the handwriting of the clerk, William Clayton, for he was the clerk of the church at that time.

241 Q:-That makes you think it was the clerk's hand-writing? A:-Well, I think it was.

242 Q:-Answer the question,-what makes you think it was Clayton's hand-writing? A:-Well I know that was the most likely that it would be written by some one. Of course the first would be written out, and then it could be copied by some one, but of course I don't know, for that is something that I have no certain knowledge of you know.

243 Q:-You did not see it copied? A:-No sir, I don't know that it was copied either, but I heard that it had been.

244 Q:-Well how long did you keep it? A:-Some four or five days. Something like that.

245 Q:-You kept it four or five days? A:-Yes sir.

246 Q:-Then who did you give it to? A:-I kept it until it was called for,-well it was called for by brother Hyrum himself, and he got it then when he called for it.

247 Q:-Was you his wife at this time? A:-I think that was in June or July perhaps, but that is something that I could not say positively, for I don't remember dates very well.

248 Q:-Was you his wife at the time that he brought this revelation to you? A:-At the time that Hyrum Smith brought it to me?

249 Q:-Yes ma'am? A:-No sir, I was not married to him at that time.

250 Q:-Where were you living at that time? A:-I was living then at my own house.

251 Q:-Why did he bring it to you in preference to any body else? A:-Well my sister and I were like one pretty much, and whatever one had was pretty much the same as if the other owned it,-what was one's was about the same as if it belonged to the other.

252 Q:-Well you were not living with your sister then? A:-No sir, we were not livin, together, but we were livin close together at that time, and we were always back and forth.

253 Q:-Well the fact is he brought the revelation to you, and not to his wife? A:-Yes sir, but I don't know how many times she might have had it and read it.

254 Q:-Had she ever read it before? A:-Yes sir.

255 Q:-How do you know it? A:-I know it.
256 Q:-How do you know it? A:-I know it for she told me so.
257 Q:-Well do you know of your own knowledge whether she did or not,-whether or not she had read that revelation? A:-Well as far as seeing her with it and reading it is concerned I don't know anything about that.
258 Q:-Now you say the revelation? A:-Yes sir.
259 Q:-And had it in your hands? A:-Yes sir.
260 Q:-And say what kind of paper it was written on? A:-I presume I did.
261 Q:-Well you know whether you did or not? A:-Yes sir, of course I saw the paper.
262 Q:-Well what kind of paper was it written on? A:-Well it was on,-well I don't know what you would call it,-that is I don't know what kind of paper you could call it,but it was on sheets about that size (indicating a sheet of paper about 8 by 15 inches,or the size that this is written on.) It was about that size,but it was doubled up the other way.
263 Q:-On foolscap paper,-is that what you mean? A:-Yes sir. That is what they called it.
264 Q:-It was written on foolscap paper? A:-Yes sir.
265 Q:-Do you know how many pages there was? A:-No sir,I don't know,but nothing there was more than one whole sheet.
266 Q:-You don't think there was more than one whole sheet? A:-No sir.
267 Q:-Are you as certain of that as you are of anything else you have testified to? A:-Yes sir,I am certain of that.
268 Q:-You are sure in that there was not more than one whole sheet,which would be four pages? A:-I don't think there was.
269 Q:-Well there was not more than two sheets? A:-I don't think there was.
270 Q:-You don't think there was? A:-No sir.
271 Q:-If there had been more than two sheets do you think you would recollect it? A:-Yes sir,I think I would.
272 Q:-Were there any pins in the paper to pin it together A:-It did not require any pins.
273 Q:-Why not? A:-Because when it was opened up it was all on one sheet. 274 Q- How can you remember anything which was in it?
275 Q:-~~How~~ Can you mention something that was in it? A:-No sir,I could not try to do it.
276 Q:-Do you recollect the last word in it? A:--How?
277 Q:-Do you recollect the last word of it? A:-No sir,I don't particularly.
278 Q:-Do you remember any statement in it? A:-I think it would be "amen" likely.
279 Q:-You think that because all the revelations,or almost all of them,end with "amen"? A:-Yes sir.
280 Q:-And that is the only reason you have for thinking that? A:-Yes sir.
281 Q:-Was the name "Joseph Smith" signed to it? A:-I don't know I am sure. I don't remember that sir.
282 Q:-Will you swear it was? A:-Well I think it would be at the first of it,and I think that because they usually commenced that way,or always did.

283 Q:-Well could you swear that his name was signed to it? A:-No sir, I don't think it was. I am sure it was not signed to it.

284 Q:-Well could you swear that his name was in it anywhere? A:-Yes sir.

285 Q:-Where? A:-At the commencement,-"the word of the Lord to Joseph Smith".

286 Q:-Well was his name signed to it at the end of the document? A:-I say I don't recollect. I don't recollect whether it was or not, but I don't think it was. It commences this way "the word of the Lord to Joseph Smith to the church" or something like that.

287 Q:-Are you willing to swear that the paper you read commenced in substance as follows,-"the word of the Lord to Joseph Smith, and to the church of Jesus Christ of Latter Day Saints"? A:-Yes sir, that is it I believe.

288 Q:-That is your best recollection of it? A:-Yes sir.

289 Q:-Are you now pretty positive of that? A:-Yes sir, I am pretty positive, but I would not swear of course positively that was what it was just, but that is my best recollection of it. That is what I think it was, but of course I don't remember every word of it.

290 Q:-Are you willing to swear to your best recollection? A:-Yes sir.

291 Q:-Are that is your best recollection as to what it was? A:-Yes sir.

292 Q:-Well how after you delivered this paper up to Lyman Smith, how long was it before you saw this paper again? A:-I can't say.

293 Q:-Well about how long was it? A:-Well I don't recollect or ever seeing it again after that. If I ever saw it again after that I have no recollection of it.

294 Q:-When there was a paper that purported to be that revelation, or that purported revelation,-when there was a paper presented here in the territory by Brigham Young, that purported to be that paper, were you asked to identify it? A:-I don't remember,-when?

295 Q:-In 1852? A:-There was a time when there was a number called together to give in their testimony as to whether or not they really belonged to the prophet or not, or whether they had ever been married in plural marriage, and then of course I was under oath.

296 Q:-Was that? A:-I could not give you the date exactly.

297 Q:-Is that when you gave your affidavit that is published in this historical record? A:-No sir.

298 Q:-That was not the time? A:-No sir, that was another time.

299 Q:-That was not the time then? A:-No sir,-no, it was not, that was the time when Joseph Smith published something, and I wrote it,-is that what you want?

300 Q:-No, I mean the time when you gave that affidavit? A:-I don't know the date of that. I couldn't tell the date of that at all.

301 Q:-Well was it about 1852? A:-No sir,-I don't remember do you remember (speaking to Joseph F. Smith) I am asking my nephew if he remembers the date, for I don't remember it.

By Mr. Joseph F. Smith,-" These gentlemen (meaning the plaintiffs) want to impress upon your mind the fact that you should simply answer the questions they ask you and nothing more, for they do not want any voluntary evidence going in here. Just answer the question asked and nothing more."

By Mr. Kelley,-

302 Q:-Well anything you know of your own knowledge, that is what I am asking you for and if you don't recollect a date just say so

and that will end it? A:-All right.

303 Q:-I ~~will~~ give you this notice or direction,-whichever it may be called,for the reason that I know you cannot remember everything,-you cannot recollect all of these dates? A:-No sir,I cannot,but I do the best I can.

304 Q:-Now I will ask you if any one,at any time since you have been here in the territory of Utah,has presented to you that paper which you say you had at Nauvoo,the paper you received as you say from Hyrum Smith,for identification? A:-No sir.

305 Q:-Have you seen the paper since you have been here? A:-No sir.

306 Q:-Have you seen the paper since you handed it back to Hyrum Smith? A:-I don't recollect. I might have seen it in his hands,but I don't recollect note of having seen it or read it after I gave it back to him.

307 Q:-Then you have never had it in your hands to see it or read it since the time that you gave it back to him? A:-No sir,not that I recollect of.

308 Q:-Well now was not that paper that you had in Illinois,that you say you had the read,and which you handed back to Hyrum Smith,was it not on sealing? A:-Yes sir.

309 Q:-And was not that the only subject to which it referred,-sealing for eternity? A:-Yes sir.

310 Q:-That is what it was? A:-Yes sir. And also on plural marriage. It was on both subjects.

311 Q:-You are willing to swear before the Lord that it referred to both subjects are you? A:-Yes sir.

312 Q:-And that you swear to positively? A:-Yes sir,I am satisfied on that point.

313 Q:-Was it not on the particular subject of sealing a man's wife to him for eternity?

Counsel for the defendants object to the question asked the witness on the ground that the witness has stated positively that it was on both subjects,-sealing and plural marriage.

314 Q:-Was it not on the subject of sealing a man's wife to him for eternity? A:-Yes sir. That was in it.

315 Q:-That was what it was on? A:-That was in it I say.

316 Q:-That was in it? A:-Yes sir.

317 Q:-And are you willing to swear to that before the Lord? A:-Yes sir,I am willing to swear to that.

318 Q:-You did it say anything bout sealing a man's wife to him for time? A:-I can't say.

319 Q:-You are not willing to swear before the Lord that that was in it? A:-I don't recollect exactly what it did say. I don't recollect it well enough to say that was in it,but I remember that it was on sealing and plural marriage.

320 Q:-Well answer the question,-you don't recollect anything about its saying anything about sealing a man's wife to him for time? A:-I don't recollect plain enough to say whether it did or did not.

321 Q:-Your best recollection is that it did not say anything about sealing a man's wife to him for time? A:-Well I can't say whether it did or not,for I haven't recollection enough on that point to give testimony as to what it did say. I know though that much.

322 Q:-How much? A:-Enough to say it was on sealing and plural marriage.

323 Q:-And that is all you know about it? A:-What I have told you,-I know that much.

324 Q:-When was the first time you ever saw this pretended revelation

325 Q:-The one that is incorporated in the book of Doctrine and Covenants? A:-Which revelation is that?
326 Q:-The one that is incorporated in the book of Doctrine and Covenants published by the church here, on Salt Lake?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper cross examination.
327 Q:-You spoke of a revelation that refers to? A:-Yes sir.
328 Q:-Well which one is it? A:-The revelation we have been speaking about.
329 Q:-Yes that is the one,-when did you first see it? A:-I have told you that.
330 Q:-Well when did you first see it after you came here,-that is after you came here to Utah Territory? A:-Well I never saw that identical paper that I know of again.
331 Q:-You mean you never saw that paper that you gave to Hyrum Smith? A:-No sir.
332 Q:-I mean, when did you first see the published revelation? A:-Well it was in the book of Covenants.
333 Q:-Was it in printed form? A:-Yes sir.
334 Q:-Is that the first time you saw it after you left Nauvoo, when you saw it in printed form in the book of Doctrine and Covenants? A:-Yes sir. I don't see why you ask those questions over so many times again for I have told you that I don't recollect of ever seeing it in any form until after I saw it printed here in the book of Covenants.
335 Q:-Well I am not asking you about that again. I am asking you when you first saw it, printed? A:-Well I told you it was in the book of Covenants.
336 Q:-Was that the printed copy? A:-Yes sir.
337 Q:-You saw it in the book of Covenants then after it was printed? A:-I saw it in the book of Covenants, and that was the first time it was in print, to my knowledge. If it ever was printed before that I have no recollection of it. That is the first time I saw it printed as a church law or revelation or history.
338 Q:-When you saw it, in the book of Covenants, that was the first time you saw it from the time that you saw it, in the house of Hyrum Smith,-or rather was the first time you saw it in printed form? A:-Yes sir. I saw it printed in the book of Covenants, and that was the first time it was printed to my knowledge.
339 Q:-Was that the first time you saw it, in any form after you gave the paper back to Hyrum Smith? A:-As far as I recollect it was.
340 Q:-Can you recollect the year that you first saw it in print in the book of Covenants? A:-No sir, I can't.
341 Q:-As soon as it was published here in Utah, was it? A:-Yes sir. It was preached here and practiced of course before that, but in the book of Covenants was the first time I saw it printed.
342 Q:-Did you, when you lived in Nauvoo, have a book of Doctrine and Covenants of your own? A:-I never was without one after I joined the church I guess.
343 Q:-Have you one now that was printed in 1835? A:-I can't say. I don't know for sure whether I have or not.
344 Q:-Will you have the one that you had in Nauvoo, haven't you? A:-I don't know. I don't think I have, for I think I have given it away.
345 Q:-Who did you give it to?
A:-I think I gave it to missionaries

going out, but then there may be one around the place somewhere, but I don't think I have the one I first had, for that one I think I gave away. They can look around and see if there is one in the house, for there may be.

846 Q:-Well I asked you about the one of the edition of 1835 that you had at Nauvoo? A:-I had one of that edition I think, but I don't think I have it now. I always had one from the time I first joined the church. I was never without one.

847 Q:-Have you a copy of Doctrine and Covenants of any kind now? A:-Yes sir.

848 Q:-You have? A:-Yes sir,-of course I have,-I am never without one.

849 Q:-How many have you now? A:-I am sure I don't know, for I get them and give them away again and get others, and I am sure I don't know how many there is now around the house.

850 Q:-Will you let your daughter get them for me? A:-Yes sir (Looking to the door keeper) Get the ones there are around here if you have a kind to. There ought to be several lying around, and you can get them if you like.

(The document referred to leaves the room for the purpose of looking up the books referred to.)

851 Q:-Was you in the present when you was married to Hyrum Smith? A:-Well now is it really necessary for me to answer those questions. I have answered them time and again, and is it necessary for me to answer them again?

By Mr. Kelly,-"You just answer the questions. I know they have been answered before, but probably there will be time saved in your answering them again."

By Mr. Kelley,-

852 Q:-Was present when you were married to Hyrum Smith? A:-Well I have answered that question already, and told you that, I could not recollect all who were present, but I know that my sister was there.

853 Q:-You were there yourself? A:-Yes sir, of course.

854 Q:-And your sister and the prophet? A:-Yes sir, and Hyrum Smith.

855 Q:-Have you your marriage certificate? A:-I don't know whether I have or not. I don't know whether or not I could find it.

856 Q:-You don't know whether you could find it,-is that what you say? A:-Yes sir.

857 Q:-Well as a matter of fact, did you ever have a certificate of your marriage to Hyrum Smith? A:-Well I don't know anything about that.

858 Q:-You don't know anything about that? A:-No sir,-that was something he was to see to,-he was to see to that.

859 Q:-Well did you ever see one?

Counsel for the defendants objects to the question asked the witness on the ground that the witness has stated that she could not remember.

860 Q:-She has not stated any such a thing,-did you ever see one? A:-Well I don't know anything about that.

861 Q:-Are you willing to say you ever had one? A:-No, for I don't know anything about that. He was to attend to that and I never had any anxiety about it.

862 Q:-Don't you know that the laws of the church did not require any certificate of marriage? A:-No sir.

863 Q:-Do you say you don't know that? A:-No sir, I don't know that.

364 Q:-Was the clerk of the church there to take a record of the marriage? A:-No sir.
365 Q:-He was not there? A:-No sir. I don't think he was there at that time. If he was I don't remember it.
366 Q:-Was Emma Smith present? A:-No sir,she was not present when we were married.
367 Q:-Was Byrum Smith's other wife present? A:-Yes sir.
368 Q:-She was? A:-Yes sir.
369 Q:-Are you sure certain the clerk was not there? A:-No sir,I do not think he was there at the time we were married. If he was I haven't any recollection of it.
370 Q:-Who was the clerk of the church at that time? A:-Sloan.
371 Q:-What was his first name? A:-I don't remember it.
372 Q:-Well Sloan was the clerk? A:-Yes sir,-that is I mean he was Byrum's clerk.
373 Q:-He was Byrum's clerk. A:-Yes sir.
374 Q:-And he was not present either? A:-No sir,he was not present.
375 Q:-Is this the book of doctrine and covenants that you mean you were living at Nauvoo prior to 1844? A:-Yes sir,and I have had it over fifty years.

By Mr.Odell,-"We object to that. The witness should be confined to stating the book referred to in the question,for it is evident she does not know what book it is she is testifying to."

By Mr Kelley,-
376 Q:-I will ask, do say to you if on such that date book was published in 1845? A:-Yes sir,I see it is I think, it is the other one.
377 Q:-Did you see one before that? A:-Yes sir,I saw another one before I got this one I believe.
378 Q:-That book was published in Liverpool,England,was it not? A:-Yes sir,but I think we had another one before that.
379 Q:-You got that one after you came to Salt Lake City did you not? A:-Yes sir.
380 Q:-You got it before you came here? A:-I think I got it in Nauvoo.
381 Q:-I wish you would do that,for you left Nauvoo before that was published. This was published in 1845 and you left Nauvoo in '46 or '47 so you must have had it when you came here? A:-Yes sir,that is so. I guess that's true. I must have got it there. I am certain I cannot remember these things very well,and sometimes I get a little wrong in dates of my age,and on account of my not hearing very well. I am old and I can't remember these things very well,they happened so many years ago,and I can't hear very well either,and sometimes I am afraid I don't understand the questions; but I want to get these things right and state them just as they were as nearly as I can,and I don't want to be doubtful or mistaken about anything. I am very careful about what I say or try to be.
382 Q:-Is that the oldest book of doctrine and covenants that you have now? A:-Yes sir,that is the oldest I know of now.

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper cross examination,and moves the court to strike it from the record for the reasons given,and for the further reason that the book has not been properly identified.

383 Q:-I will ask you now Mrs.Thompson, if the book you now hold in your hands is the book of doctrine and covenants that contained the

law of the church at the time of its publication?
Counsel for the defendants objects to the question asked the witness for the reasons and on the grounds above set forth.
A:-I really have to see which book it is before answering that question.
384 Q:-The question is whether that book contained the law of the church up to 1849, which was the date of its publication?
Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons above set forth, and on the further ground that the question calls for legal conclusions which the book speaks for its own evidence.
385 Q:-Read the title page of that book to the reporter,-that is the first page in it? A:-"The Book of Doctrine and Covenants of the Church of Jesus Christ of Latter Day Saints, selected from the revelations of God, by Joseph Smith, President, second European edition. By Orson Pratt,-15 Milton Street. 1849.
386 Q:-Printed and published in Liverpool? A:-Yes sir.
387 Q:-Was that book recognized by the church, as containing the law of the church up to the date of its publication in 1849? A:-Yes sir.
388 Q:-It is recognized by the church as containing the law of the church up to that time? A:-So far as I know it is.
389 Q:-Does that contain the revelation on polygamy?
A:-I don't think it did.
390 Q:-Will you examine it and see if it does? A:-I don't think it does,-I am pretty sure it can't for it was before that, that it was published. (Witness examines book) No,I don't tell anything about it,-I don't see it in here.
391 Q:-Is the revelation on polygamy in that book?
A:-No sir, I don't think it is in this book.
By Mr.Hall,-"I don't think there is any question about that."
By Mr.Kelley,-"Will you admit that it is not in this edition."?
By Mr.Hall,-"Certainly we will,-there is no question that it is. We have never contended that it is in it.
By Mr.Kelley,-
392 Q:-You never saw it in this book? A:-I don't think so. I don't recollect about that,but I am pretty positive that it is not. I haven't seen that book for several years,for I have a larger one,and so I don't use this one at all,but I don't think it is in there at all.
393 Q:-What is in the book published in 1849? A:-No sir, I don't think it is in there at all.
394 Q:-Now I will ask you if you have before any one publicly preach from the platform or pulpit,prior to 1844,-or I should say 1849,the date of the publication of that book of Doctrine and Covenants,the doctrine of polygamy? A:-I don't think I understand your question sir.
395 Q:-I asked you if at any time prior to 1849,the date of the publication of that book of Doctrine and Covenants,if you had heard any one publicly preach from the platform or from the pulpit the doctrine of polygamy? A:-I don't think I could answer that sir, for I don't feel my mind clear enough to answer it positively,because I don't see it exactly clear in my mind.
396 Q:-See what clear in your mind? A:-The answer.
397 Q:-You don't have any recollection of hearing it preached from the pulpit before that time?
A:-I don't remember.
398 Q:-You were with the church all the time?
A:-Yes sir,I was with the

church all the time.

398 Q:-You have heard Brigham Young, preach a great many times, both here and in Nauvoo, have you not? A:-Yes sir.

400 Q:-And Heber C. Kimball also? A:-Yes sir, I have heard him both preach.

401 Q:-And Orson Hyde? A:-Yes sir.

402 Q:-And Orson Pratt? A:-Yes sir.

403 Q:-Did you ever at any time or place hear any of them from the tabernacle or pulpit, preach the doctrine of polygamy prior to 1843? A:-I don't know. I am sure I won't say, for I can't think back that far. I really don't know. All that I can say positively.

404 Q:-You have no recollection now of ever hearing them preach it, is it? A:-I don't recollect of their preaching it in public conversations particularly. Of course I won't say that they did all the time for I did not at all of their public meetings I was.

405 Q:-Well I am speaking now about the meetings you have attended, the meetings you have not? And of course I mean you have not all of them? A:-No sir, I wouldn't say all of them.

406 Q:-You did not hear them preach polygamy from the stand, the platform or pulpit at any time prior to 1843? A:-That is not I cannot tell you for I cannot remember.

407 Q:-Were you here in Salt Lake in 1852? A:-Yes sir.

408 Q:-In August 1852? A:-Yes sir.

409 Q:-Did you usually attend the meetings held at that time? A:-Yes sir. I always did unless I was prevented by circumstances unavoidable.

410 Q:-Did you attend a meeting here at the tabernacle in August 1852,-I mean at the tabernacle here in Salt Lake City? A:-I usually attended every meeting that I could, but your question is broken in such a way that I don't answer it, for I don't know what meeting you referred to.

411 Q:-Well I will ask you the question in the other way, -Were you at a meeting at the tabernacle XXXXXXXXX here in Salt Lake City in 1852, in August or September, at which the revelation on polygamy was presented to the church for adoption to be voted on by the people? A:-Could you tell me who it was presented that for adoption?

412 Q:-Yes ma'am, I will tell you. There were several participants there on the same day, and Brigham Young, presented that revelation, which was read by Orson Hyde I think? A:-Or Orson Pratt,-which do you mean?

413 Q:-Well by Orson Pratt. Yes it was Orson Pratt, and it was read to the audience by him, and presented by Brigham Young? A:-Yes sir, that is right, I think.

414 Q:-Well were you present at that meeting? A:-Yes sir, I believe I was, for I remember something about Orson Pratt in that connection.

415 Q:-Did they vote to receive it that day? A:-The church do you mean?

416 Q:-Yes ma'am? A:-Yes sir, I believe they did. I believe so, but I could not say positively.

417 Q:-Your best recollection is that they voted upon it? A:-I could not say. I couldn't say whether they voted on it at that meeting or not.

418 Q:-Do you remember the statements that were made about the revelation by Brigham Young, at the time that he presented it? A:-I don't remember, for my memory is not good enough to tell a thing straight

unless I remember it better than I do these things. I think you ought to take into account my age and my condition of health and not ask me these questions, for it is not to be expected that I would remember things that happened forty or fifty years ago,so that I could swear right to everything,and I don't want to do anything crooked.

419 Q:-Do you not remember of his saying that he had kept the revelation for years under lock and key,and nobody knew anything about its being in existence but himself? A:-Who said that?

420 Q:-I mean you if you do not remember of Brigham Young saying that statement at the time that he presented the revelation to the church for acceptance? A:-I do sir.

421 Q:-Do you say he did not say that? A:-I don't remember of his saying anything of the kind at all. I don't remember of his saying that.

422 Q:-Do you not,or do you,remember of his saying, at that time that Emma Smith burned the original,-had burned the original? A:-No sir,I don't remember anything about that either.

423 Q:-Do you remember of his saying that at any other time? A:-Saying what?

424 Q:-That Joseph Smith had burned the original,or that he had been solely in possession of the revelation, or do you ever anything about its existence but himself? A:-No sir,I don't recollect of Brigham Young saying anything about that at any time.

425 Q:-I call your to look at this book yes. Thompson (referring to the Doctrine and Covenants of the 1876 edition published in Salt Lake City) and ask whether or not that is your book? A:-Yes sir.

426 Q:-You say read the title page as a part of your examination? A:-"The Doctrine and Covenants of the Church of Jesus Christ of Latter Day Saints,containing the revelations given to Joseph Smith,the Prophet, for the building up of the kingdom of God in the last days. Divided into verses with references,by Orson Pratt. Salt Lake City,Utah. Deseret News Co. Any,printers and Publishers,1876."

427 Q:-That was published here in Utah? A:-Yes sir.

428 Q:-In 1876?XXXXX A:-Yes sir.

429 Q:-I will ask you if that revelation on polygamy is contained in that book? A:-Yes sir. It is in there.

430 Q:-Is that the first publication of the revelation on polygamy in the book of doctrine and Covenants? A:-I think so.

431 Q:-That is the first book of doctrine and covenants that was printed,that contains the revelation on polygamy? A:-I believe it is.

432 Q:-Now I will ask you if you ever saw that revelation in a printed form until the time you saw it in that book you now hold in your hand that was printed or published in 1876? A:-No sir,-not in any book of the covenants.

433 Q:-Well did you ever see it in any printed form whatever? A:-Well I couldn't tell,because sometimes there has been articles published. It seems to me that brother Orson Pratt wrote that,-well I don't know for sure,but it seems to me that I saw it in print somewhere before that.

434 Q:-Well was that the first time? A:-Yes sir,I think so.

435 Q:-Well let me refresh your recollection,-did you see it in a publication called the "Pearl of Great Price" A:-I would not say pos-

factory to me I know, and whether it is satisfactory to you or not, is a matter I care nothing about.

451 Q:-Well sir, as it happens that this a matter in which that may be satisfactory to you or to me cuts no figure, for we desire to get it so that it shall be satisfactory and competent evidence before the judge of the United States Circuit Court, before whom this case will be tried shortly? A:-I know it was the judge.

452 Q:-At the commencement of polygamy was taught in Nauvoo in 1841, was it not? A:-Rather I told you before that it was not,-at least not to my knowledge. It was not taught publicly as all my life to.

453 Q:-Well was it taught in any way either publicly or privately in 1841? A:-Well I could not, speaking positively as to that, I will say that it was not taught as a recognized, and I don't believe it was at all.

454 Q:-Was it taught in any way either publicly or privately in 1842, by anybody,-that is by any disciple of the church? A:-It might have been and I don't know of it.

455 Q:-Will I be right upon your knowledge, and that is all you have to give or understand? A:-Well I guess you my knowledge.

456 Q:-It was not taught at that time to you or to be,? A:-No sir.

457 Q:-Did you marry Hyrum Smith in August 1842 was it? A:-Yes sir.

458 Q:-Was that with the sanction of his wife, is you? A:-Yes sir.

459 Q:-Was she present at his marriage, which?
A:-I told you before that my sister and I both lived with him as his wives.

460 Q:-Both lived together there with his as his wives in one house do you? A:-Well I told you I was his wife,-that we were his wives, and both lived there together as such, and that ought to suffice.

461 Q:-Well I am asking you if you did that? A:-Well that is enough. I have answered the question, and I don't want to answer one question two different ways. Once for a different, and then I say I lived with him as his wife,-that was that I lived with him as his wife, and not a servant.

462 Q:-Did you and your sister live in different rooms in the house? A:-Of course we did.

463 Q:-Is that a house? A:-Yes sir.

464 Q:-Did you marry after Hyrum Smith's death? A:-I don't know that it is necessary to answer that question.

465 Q:-Will you think it is necessary Mrs. Walker? A:-Why do you wish to know that,-what information useful to this matter will that convey?

466 Q:-Well we insist upon the answer to the question,-we insist upon our right to have an answer to that question?

467 Q:-Will you answer the question? A:-No sir.

By Mr. Hill,-Just answer the question,-that is all right,-just answer it for it don't make any difference any way? A:-Well after I had been a widow for a time after Hyrum was killed, then I married John Taylor.

By Mr. Kelley,-

468 Q:-You married John Taylor? A:-Yes sir.

469 Q:-In what year did you marry John Taylor?
A:-It was two years before we left Nauvoo, and let me see what year that would be.

470 Q:-Was it in '44 or '45 or somewhere along there?
A:-Well I guess it was in '45.

472 Q:-Where were you married to him? A:-To John Taylor?
473 Q:-Yes sir? A:-There at Nauvoo.
474 Q:-At what place? A:-At a private house.
475 Q:-You were married in a private house there in Nauvoo? A:-Yes sir.
476 Q:-Then you were not married in the temple? A:-No sir,not at that time.
477 Q:-Were you ever married in the temple at Nauvoo? A:-Well I don't know that that is any of your business.
By Mr. Smith,-"Simply answer the question,yes or no"? A:-Well no.
By Mr. Bailey,-
478 Q:-You were never married in the temple? A:-No sir.
479 Q:-Who performed the ceremony when you and John Taylor were married? A:-Brigham Young.
480 Q:-What ceremony was used? A:-Just the same.
481 Q:-Have you that book in the book of Doctrine and Covenants? A:-The same is also always used on those occasions.
482 Q:-Are you married then by what is known as the proxy order? A:-Yes sir.
483 Q:-Does Taylor hold the keys presently with your sister Sarah Ann Smith here today? A:-Not sister?
484 Q:-Your reference to meeting you over in eternity, your first husband together with all children for you in eternity? A:-Yes sir.
485 Q:-Which one of you did you live with when you lived, and then which one do you go to your first husband in eternity? A:-No sir.
486 Q:-Could a woman have children that belong of two men? A:-Yes sir.
487 Q:-Do you say you lived with John Taylor all his life? Did you live with him until the time of his death? A:-No sir,I did not live with him until his death, for he almost always was some place,~~and I never in the presently~~ he had his home west of Salt Lake,and I have my home here now, and I never lived with him presently.
488 Q:-Did you ever live with him at his death, all? A:-No sir.
489 Q:-How long for how long,? A:-Well for a short time only, not never after years.
490 Q:-Are you married to any body else this time that you are married to John Taylor? A:-John Taylor was only then dead short time.
491 Q:-Will you repeat the question,-are you married to any body else again, this time you are married to John Taylor? A:-What is the question?
492 Q:-Are you married to any body else during the time that you were married to John Taylor,-answer the question "yes" or "no"? A:-No sir,I was not. It could not be likely that I could be married to two at the same time.
By Mr.Smith,-"Just answer the question "yes" or "no",and that is enough."
A:-Well I have answered it,and I don't think they could ask me such questions?
493 Q:-
By Mr.Bailey,-
493 Q:-Are you not sealed to another man after you were married to John Taylor? A:-Well I will not answer that question. Am I obliged to answer any more of such questions?
494 Q:-Well do you decline to answer that question? A:-Yes sir.
495 Q:-For what reason,or on what ground do you decline to answer that question? A:-Well sir,for the reason that I don't think I am under any obligation to answer any such a question as that,and when I have said that I have said enough.

496 Q:-You decline to make any more answers to any question? I may ask you? A:-No sir.

497 Q:-Why do you decline to answer? A:-I decline to answer any more questions on that subject.

498 Q:-Will you care you ever married in the temple in this city or in the endowment house here? A:-I have never married in the endowment house.

499 Q:-Have you ever sealed to anybody in the endowment house in this city? A:-No sir.

500 Q:-[illegible] A:-[illegible] sir.

501 Q:-[illegible] A:-Yes sir.

502 Q:-[illegible] A:-To Hyrum Smith. I was [illegible] to Hyrum Smith.

503 Q:-[illegible] A:-[illegible] to Jesse Gay or.

504 Q:-[illegible] A:-No sir.

505 Q:-[illegible] A:-Of course I [illegible].

506 Q:-[illegible] A:-Yes sir.

507 Q:-[illegible] A:-Yes sir.

508 Q:-[illegible] A:-[illegible] sir.

509 Q:-[illegible] A:-[illegible] no [illegible] man.

510 Q:-[illegible] outside of [illegible] the [illegible]? By Mr. [illegible],-"[illegible] to [illegible]." A:-Yes sir, and [illegible] it [illegible] to [illegible] do. By [illegible],-

511 Q:-[illegible] the [illegible] A:-[illegible] sir, [illegible] the [illegible] to [illegible] the [illegible] If I am [illegible] I will [illegible] na [illegible] time, I will tell [illegible] T [illegible] to [illegible].

512 Q:-[illegible] A:-[illegible] this, I should never [illegible] to anybody,-if I [illegible] the [illegible] nor, when the [illegible] in [illegible] Joseph [illegible] the Prophet [illegible] the eternal world [illegible] the prophet, and to his brother Hyrum [illegible] little child, [illegible] the eternal world to protect Hyrum [illegible] of the little child and keep us in this world [illegible] or resurrection to deliver [illegible] by persuasion, or that [illegible] to the prophet, or to brother Hyrum [illegible] prophet, commanding Hyrum to [illegible] little child, and he did not, at [illegible] and he [illegible] the second time,-[illegible] of the Lord,-[illegible] through the angel, and when [illegible] of the Lord the vision told him to go and do [illegible] promised him to do, and that [illegible] the [illegible] to Hyrum and told him [illegible] to go, and then he went, [illegible] to break the cup to go.

513 Q:-Will [illegible] A:-Yes sir, no [illegible] it.

514 Q:-[illegible] that Joseph received revelation

were you present? A:-I know it.

515 Q:-How do you know it? Were you present at the time?
A:-No sir. Which revelation do you mean?

516 Q:-The revelation from the angel,-the revelation from your husband? A:-No sir.I was not present.

517 Q:-You were not present when that was received?
A:-No sir.

518 Q:-And yet, you say you know it was received?
A:-Yes sir.

519 Q:-All the facts you could know anything about, except, as, somebody also told you? A:-Only what the prophet told me, and I know it was straight from the Lord.

520 Q:-Did the prophet say that he got it from your husband? A:-No sir.

521 Q:-Did he not tell you that? A:-No sir.

522 Q:-Now who do you say it came to you from? A:-He said that it came straight from the Lord with the angel from my husband in the eternal world bringing the message. Now I hope you understand me.

523 Q:-Well I think I do. Now that was when? A:-When did I receive it?

524 Q:-Yes? A:-That was in April.

525 Q:-Was it in April 1843? A:-Yes sir.

526 Q:-Now you say that before you was married to Hyrum Smith? A:-Well it was very soon afterwards that we married,for I found out that as the Lord lives my husband did not require it of me,-required it of us,we did not refuse.

527 Q:-You did not feel at liberty to refuse the request?
A:-No sir. We felt that we dared not refuse.

528 Q:-Now at the time that you were married to John Taylor by Brigham Young at Nauvoo, was the ceremony performed?
A:-No sir.

529 Q:-Well was any revelation at that time from the Lord unto you, the angel, or from your husband requesting or directing you to marry John Taylor? A:-Nothing particular.

530 Q:-Was there anything of that kind particular or otherwise? A:-No sir.

531 Q:-Did you marry him then if there was no command from the Lord to that effect, or a request from your husband in the eternal world? A:-Well I knew it was the will of God,and would not do anything only what was right,and I had satisfactory testimony myself.

532 Q:-Will you tell me how you happened to be sealed to John Taylor outside of the temple? A:-Because we had no temple.

533 Q:-Was that the law of the church? A:-Yes sir.

534 Q:-Where can it be found? A:-I don't know.

535 Q:-You have always had a book of Doctrine and Covenants, containing the law of the church,and yet you cannot tell where the law is on that point?
A:-It is in there somewhere but I can't just turn to it.

536 Q:-Does not the law of the church require the president to do the sealing? A:-Yes sir,when we had a president it had to be done by him,but at that time the president was not here,-the president had gone to another world and the sealing had to be done by some one authorized to do the sealing before he left.

537 Q:-What law gave any one else the right to perform that ordinance? A:-The president Joseph made the law before he left this world for the eternal world.

538 Q:-Have the right to seal? A:-Yes sir.

539 Q:-Have whom the right to seal? A:-Brigham Young.

540 Q:-Will you give me the book and page where that is to be found? A:-It is my testimony that you are saying I suppose? Is it not that you are saying?

541 Q:-Well I went to your where the revelation from Joseph Smith is, that gave to Brigham Young the right to act? A:-Well I am going to tell you all about it, for I think I can. I was present at the time the prophet gave that authority. I heard the prophet give that authority and power to Brigham Young. He came unto him and turned to him and said unto him, or taken from the church,-supposing should be absent or taken from the church, or, or, or I do not that he knew at that time,-that is that the prophet said at the time that he gave that authority to Brigham Young that he was going to be taken from the church,-that he wanted him to understand it so, for he knew he would be wanted him to do every particular thing pertaining to the performance of all the ordinances and duties of the church, to everything pertaining to the duties, so that if I should be taken away, he could act in my place." For there is more I heard him say, if you want to.

542 Q:-The Twelve? A:-The Twelve.

543 Q:-To whom was speaking to? A:-The Twelve, and they were all, three, or most of them at the time.

544 Q:-Well, so that is what he said, as you have stated it? A:-Well, of course I won't say that exactly in words, said, but that was about what he said, for I know, and I am sure.

545 Q:-You are sure of it, are you? A:-Yes sir, I am there myself.

546 Q:-Was not President Brigham Young the President of the church at that time, my word, that he appointed the Twelve? A:-No sir, not particularly to do.

547 Q:-Will you state not the fact that Hyrum Smith was the President or office then Brigham Young? A:-Well he was one of the First Presidency.

548 Q:-Was not, was one of the First Presidency, and so was Sydney Rigdon,-is that not the fact? A:-No sir. Sydney Rigdon was not then.

549 Q:-Was Sydney Rigdon a member of the First Presidency at that time? A:-Yes sir, he was, but at that time he was not.

550 Q:-Had been before? A:-Yes sir, but he was not at the time I refer to.

551 Q:-Well he had been shortly before that and was after that? A:-No sir, he was not after that,-never after that.

552 Q:-Who was present at that time,-that is at the time Brigham made this declaration to the church? A:-The Twelve were there,-the quorum of the Twelve were there.

553 Q:-Who were the counselors to the President then? A:-Well I believe William Law was one, and brother Hyrum Smith was the other. That they were the counselors when Joseph was living.

554 Q:-Was not at the time he was killed,-at that time was not Sydney Rigdon one of the counselors,-one of the First Presidency? A:-It don't seem to me he was. Well of course I suppose he was in a way,-perhaps he was in a way of counseling but he was never there, or very seldom there.

555 Q:-Will it not a fact that he had been a member of the First Presidency, but was out a while and had been re-instated? A:-Yes sir.

557 Q:-Did you ever write a letter to Joseph Smith?
A:-I can't say.-
558 Q:-Well I will modify that question,and ask you if you ever sent a letter to Joseph Smith,and published it in the historical record? A:-I sent a letter to him.
559 Q:-Is it published in the historical Record? A:-Yes sir,I think likely it is there.
560 Q:-Did you publish the answer to it? A:-The answer to my letter?
561 Q:-Yes sir? A:-What letter?
562 Q:-Did you publish the answer to that letter that you received from Joseph Smith,-that is the letter written by Joseph Smith in reply to the one you sent him? A:-It was not fit to answer until it was corrected. It was one cent absolutely fixed up this. I never saw that it was not fit to publish until it was corrected.
563 Q:-Have you that letter? A:-It was sent to the typewriter in the printing office,and it was the most slovenlous thing.-I never had anything try me so as that letter did.
Counsel for the defendants objects to my testimony being offered,on the question of this letter,on the ground that it is incompetent,irrelevent and immaterial,and not proper cross examination,and moves the court to strike it from the record for that reason.
564 Q:-Was that letter written to you? A:-Yes sir,it was printed.
565 Q:-Did Joseph reply to you in his own handwriting? A:-Of course,it was printed.
566 Q:-Do you mean by that that it was in typewriting? A:-Yes sir,and it was afterwards published.
567 Q:-Have you got that letter? A:-No sir.
568 Q:-Where is it? A:-It was in a newspaper. In the evening I saw it come out,and the printer wrote a very proper apology for me for the way it had turned out, for he was ashamed he voted over it.
569 Q:-He wrote an apology to Joseph Smith also,for the way it had come out? A:-I don't know whether he wrote or not. I know he did do so.
570 Q:-You don't mean to say that the letter was in that condition when you got it from Joseph Smith? A:-He did not write to me. He just published it in the paper,and also published my letter in the paper.
571 Q:-And his answer to it? A:-I don't think he did. I know that I got so vexed over the thing that I did not pay much attention to anything else,for I don't recollect that I ever had anything vex me more than that did.
572 Q:-Still I have not been asking you about your letter that you wrote to him,-I have been asking you about the letter that he wrote to yours,if he did write one? A:-Well that is what I am telling you about,-he did not write one.
573 Q:-Will now was there any record of your marriage to Mary Taylor made in Nauvoo at the time you married to him? A:-I can't say.
574 Q:-Well what is your best recollection about that? A:-I never asked any questions about that.
575 Q:-Was the clerk of the church there at the time? A:-That is a matter that I supposed he would look after,-I did not trouble myself about it.
576 Q:-Was the clerk of the church there? A:-I think not, but I cannot say.
577 Q:-Did you get a marriage certificate?
A:-I told you before that he would see to that of course. I did not trouble myself about

it at all, for take [illegible] something, that I supposed he could look after.

578 Q:-Well did you ever see a marriage certificate of your marriage with John Taylor? A:-No sir, I don't remember of seeing it anywhere particularly.

579 Q:-What is your own recollection about being married, once? A:-Well I don't think I ever did see one.

580 Q:-Did Lyman Smith have any other wife, at the time that you were his wife? A:-And did I not tell you my sister was his wife,-

581 Q:-Did you say so? A:-No sir, I don't think that so had. I don't recollect, but I don't think he said.

582 Q:-Is Lyman Smith living, now, by wife, other than yourself, and is you were his wife? A:-Well no and my sister. I have told you that a dozen times.

583 Q:-Did you see the man who was his wife at the time that you were married and was sister? A:-Some time. I may of.

584 Q:-Has you any your sister? A:-No sir.

585 Q:-Lyman Smith never had any children by you and your sister, exce this, the one that you of before you married him,-to your knowledge? A:-I don't know of any other that I said.

586 Q:-Is this all that you know and know of? A:-Yes sir.

587 Q:-Was it? A:-Yes sir. Well now I wish to explain,-Lyman Smith after I was married to him took other lives.

588 Q:-Did you or not state that at the time I married you? A:-Well at the time I married you I understood that you married to the time that I married to him, and after he by other, and I told you that the business would be by sister, and I told you that so I not.

589 Q:-Will then he married or living? A:-Yes sir.

590 Q:-Do you know no? A:-Well I don't know. I don't know any of and, for I have never him, but I never.

591 Q:-Can you tell any of them? A:-I don't know.

592 Q:-Can any of them that be married after he married you? A:-No married one by the name of Ross Perry,-but I don't say who they were, for I don't remember.

593 Q:-Was did he Perry marry? A:-Well there was a Catherine Phillips also,-he married her too. (The name of Catherine Phillips was suggested to her by her counsel.)

594 Q:-How did he Perry marry her? A:-It was in a year or two after he married me.

595 Q:-Will he was dead in less than a year after he married you? A:-Well it was not a year but it was pretty soon afterwards.

596 Q:-Can he be concluded that it was not a year after he married you that he married Catherine Phillips? A:-Yes sir, it could not be a year, and I remember that it was pretty soon after he married me that he married her.

597 Q:-When did he marry Miss Perry? A:-I can't tell you that, for I don't remember.

598 Q:-Was it soon after he married you? A:-Yes sir.

599 Q:-Did Miss Perry live in the house then with you? A:-Yes sir. Did you ask me if she lived in the same house with me?

600 Q:-Yes sir,-or ma'am, I mean? A:-No sir, she did not. She was living with her mother, and she still continued to live there together.

601 Q:-Were you present at the wedding? A:-No sir.

602 Q:- [illegible] wedding, and consequently did not [illegible] married, and yet you say they were married? A:-Yes sir.

603 Q:- [illegible] they were married? A:- I told [illegible].

604 Q:- [illegible] told you? A:-[illegible].

605 Q:- [illegible] married? A:-Well I [illegible] married, [illegible] I don't [illegible] it [illegible] the truth. I don't [illegible] it [illegible].

606 Q:- [illegible] except [illegible] A:-[illegible], for [illegible] herself, [illegible] to [illegible] stand [illegible] herself.

607 Q:- [illegible] A:-Well [illegible] just [illegible], for I did not live [illegible], but [illegible] told me about it.

608 Q:- [illegible] A:-[illegible].

609 Q:- [illegible] A:-I [illegible], but on [illegible] occasions [illegible].

610 Q:- [illegible] told you, -that is [illegible] told you? A:-[illegible].

611 Q:- [illegible] it? A:-[illegible] told [illegible].

612 Q:- [illegible] A:-[illegible] and [illegible].

613 Q:- [illegible] A:-[illegible].

614 Q:- [illegible] A:-[illegible].

615 Q:- [illegible] A:-[illegible].

616 Q:- [illegible] it? A:-I [illegible] it, [illegible] I [illegible] tell you [illegible].

617 Q:- [illegible] "[illegible] that [illegible] the [illegible] Smith [illegible] Smith [illegible] it only [illegible] you [illegible] Smith [illegible] Perry told her." lady

618 Q:- [illegible] A:-[illegible] Perry [illegible] to [illegible]

619 Q:- [illegible] Lady? A:-Catherine Pullings.

620 Q:- [illegible] A:-I don't know.

621 Q:- [illegible] married you? A:-I don't know.

622 Q:- [illegible] how long [illegible] married you [illegible] Pullings, -approximately [illegible] you to tell the [illegible] day [illegible] A:-Well I don't say for I don't know, but [illegible] it must [illegible] been [illegible].

623 Q:- [illegible] live with her as his wife? A:-I can't [illegible] that.

624 Q:- [illegible] the ceremony? A:-No sir.

625 Q:- [illegible] the ceremony? A:-I don't know.

626 Q:- [illegible] married to her? A:-By [illegible].

627 Q:- [illegible] of Smith after he married [illegible]? A:-I guess so.

628 Q:- [illegible] A:-I live frequently [illegible] called "[illegible]."

629 Q:- [illegible]? A:-At Invco.

630 Q:-When? A:-By different persons.

631 Q:-When you lived in Nauvoo, and then Hyrum Smith was living? A:-I don't, more envy in. Look it,-there is no use again, where questions over and over again, for I am telling you the truth the very best I know how, and there is no use in repeating over and over again these questions.

632 Q:-I will ask you if you went by the name of Smith while you were there? A:-No sir.

633 Q:-[illegible] you go by? A:-I went by the name of Wood.

634 Q:-Did you never call Mrs. Smith? A:-No sir.

635 Q:-And you never called her wife by the name of [illegible]? A:-Yes sir, she was [illegible]. Yes sir, she was [illegible] Mrs. Smith, because she was his first wife.

636 Q:-Both [illegible] that you say he married, [illegible] Smith, that you know of? A:-I don't know anything about that.

637 Q:-You say your sister was his own wife? A:-She was his real wife. [illegible].

638 Q:-Do you make any distinction between yourself and Hyrum? A:-Well I don't know exactly that [illegible] I [illegible] in the same sense as [illegible], for I [illegible] only,-I mean that I was sealed only by proxy, and that is why I made the question.

639 Q:-[illegible] only [illegible] proxy [illegible] to see the [illegible]? A:-I don't know.

640 Q:-[illegible] or married to them? A:-I don't know.

641 Q:-[illegible] children born to [illegible], you know? A:-I don't know, but, I don't say that there was,-I don't know either one way or the other.

642 Q:-Don't you [illegible] that, [illegible] to [illegible] children of that [illegible]? A:-No sir, I don't. I don't know, but it is [illegible] Hyrum Smith married, and [illegible] near [illegible] time, and there was one or two of them that [illegible] Valley [illegible].

643 Q:-[illegible] live in [illegible] with you, [illegible] A:-[illegible] and it was [illegible] that [illegible] married, that [illegible] children in that [illegible].

644 Q:-[illegible] Hyrum Smith died in the month of June in 1844 [illegible] other ladies were married to [illegible] in 1843? A:-I [illegible], but I don't know that he [illegible] married that year,-it might have been in 1844 that they were married to him.

645 Q:-[illegible] died in 1844 you were there still [illegible] ladies until 1846? A:-Yes sir.

646 Q:-[illegible] long enough for these ladies to have [illegible] by Hyrum Smith, if they were going to have any children? A:-Well that is a [illegible] question.

647 Q:-Well [illegible] in this,-did any of those ladies [illegible] Hyrum Smith married, at any time that [illegible] married to them, and the time that you left there in 1846 have any children that were recognized as Hyrum Smith's children? A:-No sir. Not you say it [illegible] that they came away from there.-

648 Q:-Now, I said yes. Therefore this, that Hyrum Smith was killed in 1844? A:-Yes sir.

649 Q:-You that you lived in Nauvoo after that time up to 1845? A:-Yes sir.
650 Q:-And those other ladies that you say married in Nauvoo,-that is Catherine Phillips and Miss Percy lived there in '45 also? A:-Yes sir.
651 Q:-Did you have any children by Hyrum Smith born to either one of these women? A:-Well they were either one or both of them too old to have children, or he did not have any children.
652 Q:-Well, then, there were no children born to either of those women? A:-No sir, not that I ever knew of.
653 Q:-And there were no children as the result of your marriage to him? A:-No sir.
654 Q:-Now I will ask you to investigate Mrs. Thompson,-was there any of the women, including yourself, that Hyrum lived with up to the time of his death? A:-I don't know. I don't say.
655 Q:-Well, is there any of you that ever lived with him? A:-No sir, for the most part several nights I was at my residence. There was a lady that lived little days at my house that I don't think of their names.
656 Q:-Well, you can refresh your recollection by asking your father?

By Mr. Smith,-"Will Counsel for the defendants object to that, if you please, say so, and I will put the question? A:-I know he had quite a number of wives, but as to naming them I can state all their names, or if it,-that is, there is to it. If I am to suffer for it I don't tell their names, and I am, I, I suppose that too.

By Mr. Coley,-
657 Q:-Well, you know that there were other wives, or other women that he had? A:-I know of the other wives.
658 Q:-Were any of them present at any of the meetings? A:-I could not.
659 Q:-I ask you in reference to the death of your father and Hyrum Smith, Joseph Smith, do you know of any of the women of Hyrum's, or your mother, or any of the women of Joseph's, in reference to the meetings of the Lord? A:-I don't recollect any of them.
660 Q:-Do you know any of them? A:-I say, no I don't know. I say, I don't know any I could.
661 Q:-Did you consent to them? A:-No sir,-the, the, prin-ciple?
662 Q:-Was it? A:-No sir.
663 Q:-Did your sister consent to any of them? A:-I don't know, I don't know anything about that.
664 Q:-Your sister living? A:-No sir.
665 Q:-How old was she when died? A:-Nineteen, twenty years.

By Mr. Smith's daughter,-"Twenty nine years?"
A:-Twenty nine years?
666 Q:-No, thirty nine years? A:-Well I don't know now, it is a long time, but it was over a dozen years,-twelve, fifteen years.

By Mr. Coley,-
667 Q:-I will ask you this question, and it is the last, and I ask you I suppose,-did you ever see a child or, I mean, you I suppose,-did you ever see a child, either a boy or girl of Hyrum Smith's, or that was old enough to be his, while you lived in the city of Nauvoo, Illinois? A:-No sir.
668 Q:-Except, perhaps a child by his first wife? A:-No, others that I know of. There was by his first two wives, but that was all.
669 Q:-I mean your sister or the wife that was before her? A:-Yes sir.
670 Q:-Do you recollect whether or not Hyrum Smith's first wife had any children? A:-Yes sir.
671 Q:-Do you recollect what their names were? A :-Yes sir.

672 Q:-Will mention their names please? A:-John Smith, who is married now, and the next was Lavina, and the next was Irvin, and then there was Jerushy and Sarah.
673 Q:-These are the children by your sister? A:-Yes sir, they were his first wife's children.
674 Q:-Was there any from the marriage with your sister? A:-Yes sir.
675 Q:-What were their names? A:-There was,-this is one.
676 Q:-Was that Joseph B. Smith? A:-Yes sir.
677 Q:-[illegible] A:-Yes sir. There was Martha Ann.
678 Q:-[illegible] was just two children by your sister [illegible]? A:-Yes sir.
679 Q:-[illegible] children be any other women to your knowledge? A:-Not that I am acquainted with or have heard about.
[illegible] Smith said he had no other wives.

On behalf of the defendants [illegible] the witness whose deposition is above set forth, was re-sworn on the part of the defendants, and testified as follows in response to questions asked him by Mr. C.A. Hall,-
Q:-Mr. [illegible], though I may return you want to make a statement by way of correction or otherwise in regard to your meeting with John Taylor? A:-I think as I said all that was necessary on that subject the other day.
Counsel for the plaintiff objects to the witness being placed on the witness stand for the purpose of correcting his testimony, or for re-direct examination or examination direct in chief, for the reason that he examined a man on the stand the day last mentioned, and [illegible] in the first instance, and that the time and (the circumstances) are been at his [illegible] to all [illegible] the change upon the matter of his testimony so [illegible] for several days since. Leave to recall was given here-to-fore, and that as this is a friendly witness to the [illegible] this should not be permitted, particularly as the witness is aged and infirm and easily confused.
Q:-I will ask you to state Mrs. Thompson, if you have talked with yourself or R. Cabell, this matter at all, since you were examined here the other day?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading and immaterial.
A:-I did not.
Q:-When were you married to John Taylor?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper re-direct examination.
A:-I told you at least I could tell you before at the time that you were here. I told you then as well as I could remember at that time, but since you have been away I have tried to think over it. My memory is not as good as it used to be, but it was somewhere,- December in March 1845 I believe.
By the witness's daughter,-
683 Q:-It was in fact,-we left Nauvoo in '46? A:-Well that is right, for it was in '45. Yes my dear that is right, for it was in '45.
Counsel for the plaintiff objects to the answer of the witness, and moves the court to exclude it from the record for the reason that it is irrelevant and immaterial, and not proper re-direct examination, the witness having testified to the same matter when on the witness stand here-to-fore, and on the further ground that in making the answer the

witness was prompted by her daughter, and made the
[illegible] which her daughter put into her mouth."

684 Q:-[illegible] A:-[illegible] sir.

Counsel for the plaintiff objects to the question, and
the objection on the ground that it is not proper
[illegible] expectation, is leading and incompetent, irr
[illegible] material.

685 Q:-[illegible] A:-In [illegible] 1847.

686 Q:-[illegible] that?

Counsel for the plaintiff objects to the question asked
[illegible] for the reason that it
[illegible] material, and not
[illegible].

Q:-[illegible] married?

687 Q:-[illegible]

Counsel for the plaintiff objects to the question asked
[illegible] shows [illegible].
[illegible] of testator.
Q:-[illegible] "testator"? A:-[illegible] sir,-it was testator.
Q:-[illegible] A:-"[illegible] married was [illegible]."
Counsel for the plaintiff objects to the [illegible] the
[illegible] the interpretation of the [illegible] the
[illegible] to [illegible] from
[illegible] material, [illegible] irr-
[illegible] material, [illegible]
[illegible] to testify on [illegible] XXXX to
[illegible].

Q:-[illegible]

688 Q:-[illegible]?

Counsel for the plaintiff objects to the question asked
[illegible] irr-
[illegible].

Q:-[illegible]?

689 Q:-[illegible] year? A:-[illegible] year.
[illegible] year.

691 Q:-[illegible] year [illegible]? A:-[illegible] 1847.

692 Q:-[illegible]?

Counsel for the plaintiff objects to the question asked
[illegible] to [illegible] for the reasons
[illegible] grounds above set forth.

693 Q:-[illegible] difference, if any, is there between the condi-
tions specified here, and the endorsements you receiv-
[illegible] before the death of Jose A. Smith.

divorced from John Taylor? A:-No sir.

719 Q:-You say it was not, under that decree- that you were divorced? A:-Yes sir.

720 Q:-Was it before that that you were divorced? A:-Yes sir, if it was registered. I have some recollection of [illegible] of the kind that you mention concerning, but I could not say that that was it.

721 Q:-Did you bring the suit against John Taylor under which you received your divorce? A:-Well there was [illegible] charge preferred,-it was a mutual [illegible] all around.

722 Q:-Did you see John Taylor served to appear? A:-[illegible]

723 Q:-[illegible] it was a subpoena, Mr. [illegible]? A:-[illegible] sir.

724 Q:-Do you [illegible] a copy of the decree of divorce? A:-I have not.

725 Q:-Did you produce it? A:-I have it somewhere, but I [illegible] it, if it was not.

726 Q:-Did you have your day in court, and [illegible] it? A:-I don't know that we could find it, and I [illegible] I could tell [illegible] could [illegible] it. I have to [illegible] it, but I [illegible] it, because I am not able to [illegible] that I have to.

727 Q:-Will you have any recollection of [illegible] in [illegible]? A:-I am sure I could not say.

728 Q:-[illegible] of,-[illegible] if [illegible]? A:-Well I could tell it [illegible] it, [illegible] to pass [illegible], but, no! [illegible] so, and I don't like to [illegible] it by [illegible] an examination [illegible] I don't [illegible].

729 Q:-[illegible] pretty fair recollection of it, is [illegible]? A:-Yes sir, but I don't like to [illegible] that they are, for [illegible] and there, and that is [illegible] I don't [illegible].

730 Q:-Will you tell all you can of it,-[illegible] you can remember of it [illegible]? A:-Well I [illegible] it, if I believe it is, and then I will tell [illegible] I [illegible] certain of?

731 Q:-[illegible]? A:-The [illegible] Agostins were [illegible] one, and by the connection of the [illegible] P. Taylor assenting [illegible] request [illegible] granted [illegible],-Well I don't know [illegible] you call it,-[illegible] of witness,-"A bill"? A:-Yes sir [illegible], that [illegible] it. I don't remember to be [illegible] very well, but [illegible] it I think,-It was a regular bill of divorce [illegible] and [illegible] other proceedings [illegible] [illegible] before the [illegible] of the court [illegible]. That is I mean before Brigham got [illegible] [illegible] last time, and they also wrote to me to [illegible] I was free, and that if I wished, [illegible] they may [illegible] any holding [illegible] prohibited that I was at liberty to do so, and that it was understood [illegible] [illegible] of the Twelve. Brigham Young [illegible] William Richards acting as clerk. How is that [illegible] as I can remember it, and I think it is [illegible] my dear. (Speaking to her daughter.)

By Mr. Colby,-

732 Q:-[illegible] President Young was not here at that time? A:-[illegible] he had been here, but at that time he had returned [illegible] to winter quarters.

733 Q:-Then you were divorced at winter quarters? A:-[illegible] sir.

734 Q:-Where? A:-It was written at South Pass on the road to winter

[illegible] to [illegible] to

[illegible] to

[illegible] all

[illegible] all

[illegible] all

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

same,-it is for the court to say whether they are alike or not?

By [illegible] Bidwell,-"I will ask the court, through this examin- [illegible] to apply the same rule that was applied in the [illegible] of the other witnesses,-that we are instructed that [illegible] not required to reveal these secret orders if [illegible] or obligated themselves not to do [illegible] such as has been asked [illegible] revealing any of the se- [illegible] or practices of the church, unless they are [illegible]."

By [illegible] Bidwell,-"The Court instructs the wit- [illegible] they have a right to reveal anything that they [illegible] obligations not to reveal, but this wit- [illegible] has not, upon such an obligation, and [illegible] the question of the question for the reason that [illegible] objection the answer is not pertinent to the [illegible], or is not "necessary" as the [illegible] puts it. But let [illegible] ask."

Q:-[illegible] to the temple [illegible] vision [illegible] A:-Yes sir.

Q:-[illegible] in the [illegible] exhibit "A" paragraph [illegible] and twenty four, on [illegible] twenty three,-just [illegible] that (quot- [illegible]). [illegible] that. A:-Well I can't see [illegible] what I have stated. It is [illegible] I can't see any [illegible] again that [illegible],-that it was revealed to Joseph that the [illegible] outside of the temple [illegible] it. [illegible] of it just [illegible] as [illegible],-that is when we did it [illegible] we always did it in [illegible]. We consecrated it just the same as if we [illegible] to build a temple. Of course we could not [illegible] the very best [illegible] build a temple. Of course we could not [illegible] the [illegible] and [illegible] build one.

Q:-And still you say that the more accepted of your [illegible] in the face of this revelation, which [illegible] this very,-"And again verily I say unto you, how [illegible] your tithings be accepted unto me, except you [illegible] in the house which you have built to my [illegible]." What do you say to that? A:-I say that is per- fectly correct. That is correct, because we told Jo- [illegible] the Prophet, that when we did not have a house [illegible] in Ohio, that then we performed [illegible] outside of such a house in a place that was dedica- [illegible] to him that he would accept them.

Q:-Who did we tell that to? A:-To Joseph Smith.

Q:-Well hold on,-was Joseph Smith the Prophet, above [illegible] law,-did he make the ~~[illegible]~~ law? A:-Yes sir, he [illegible] the church law,-that is the Lord made the law [illegible] Joseph spoke it.

Q:-Well this that I have read was the law of the church? A:-Yes sir.

Q:-How Joseph could not make a law that was in con- flict with that which I have read? A:-No sir. Not without he had the word of the Lord for it.

Q:-Now I will read the next paragraph,-thirty eight of the same section but on the next page? It is as follows,---"For this cause I

built to the Lord? A:-Well he revealed that to Joseph Smith.

932 Q:-Well did the Lord reveal it to Joseph Smith outside of any house that was built to the Lord? A:-I suppose he did. I don't know,and never did,that these revelations had to come to the prophet inside a house built to the Lord.

933 Q:-Well did the Lord reveal to Joseph Smith that those ordinances could be given in a house or room in a house that was not erected in his name? A:-No sir. I don't know what sir. The prophet said they could be given,and he had it from the Lord,and they were given into those places I have told you of. I don't know but I could say no sir, for I have told you many times that wherever there was a consecrated to the Lord,it was to the people.

934 Q:-Well sir,is what you have testified to,all you know about the revelation of the priesthood? A:-I think so. It is all I know,and I have told you it is what I know, it was and ever is, sir.

935 Q:-Will you have been taught by the children out there, it seems to me? A:-I think?

936 Q:-Didn't you,-I mean to the children underground? A:-Why?

937 Q:-I mean, you say you have not been taught by the children, you only know as to the salt mine, it refers to those underground? A:-What does?

938 Q:-The salt mine you have been examining, you know about,and what I have read to you? A:-It always refers to the underground, it say "underground."

939 Q:-It always refers to the same one, this it says underground, does it? A:-Yes sir,that is the way I understand it. I don't see any other manner, and he spoke of it.

940 Q:-And it always refers to the same thing? A:-I guess so, sir.

941 Q:-Then you understand of the washing of feet,-of the feet,and anointing with oil,-when the revelations speak about that,it refers to those, does and answers does it not? A:-I don't tell you anything about that, for I don't know whether it does or not,but I suppose it does.

942 Q:-Well the fact is, is it not,that you don't know anyone who knows about that? A:-Well I don't know that I do. I don't know that I can say anything about that, for I don't know that I can really say anything about anything, that I have not seen.

943 Q:-Did you ever see any reference to the washing,-washing of the feet,and anointing with oil, was there not? A:-Well that was before I came into the church I suppose. You see, was before I came into the church.

944 Q:-Did the Lord reveal that outside of the temple, or inside of the temple that was built to his name? A:-Well I expect it was since the temple was built around.

945 Q:-Since the temple was built, where? A:-At Kirtland.

946 Q:-Well didn't you say it was revealed in the temple? A:-Well I can't say as to that,but I have heard that it was,sir, of course I can't say,as I did not see it. I have been told that angels were there,and came and sat with them,and that the angels were outside of the temple.

947 Q:-Do you believe that? A:-I do.

948 Q:-You believe anything that you hear that came from any of the officers of the church? Is that not the fact? A:-I believe what I hear,-just as I have been talking to you now. Or you have no right to dispute everything or anything, I say,because I consider

to say anything but what I am at liberty to say. I am trying to give my testimony on these things the best I can, and tell everything you ask me that I have a right to tell.

939 Q:-Then you believe everything you heard Brigham Young teach, or preach while XXX he was President of the church, as well as everything that Wilford Woodruff tells you? A:-I believe everything that they say as the word of the Lord.

940 Q:-And it is a fact that when you are called on to testify they say as the word of the Lord, that is, in fact, it is as the Lord? A:-Yes sir.

941 Q:-And that I suppose is what he tells you, you believe that to be as the truth, don't you? A:-I am prepared to say it is the word of the Lord on this or that,-I believe it, sir, it seems to be that way.

942 Q:-[illegible] A:-Yes sir.

943 Q:-[illegible] A:-Yes sir.

944 Q:-[illegible] A:-[illegible]

945 Q:-Yes,-how many times [illegible] yourself? A:-[illegible] at, -that, [illegible] illing [illegible] that, [illegible] start afresh again, and [illegible] at that time.

946 Q:-Yes sir. [illegible] A:-Yes sir. [illegible] I think.

947 Q:-[illegible] A:-[illegible]

948 Q:-[illegible] A:-Yes sir.

949 Q:-[illegible] time when [illegible]

950 Q:-[illegible] A:-Yes sir.

951 Q:-Yes [illegible] A:-Yes sir.

952 Q:-[illegible] A:-Yes sir.

953 Q:-[illegible] A:-Yes sir.

954 Q:-[illegible] A:-[illegible] sir, there was certain said [illegible] plural marriage, particularly in the first [illegible] we were all professors of [illegible] and had a right to be baptized if we [illegible] have done so. I tell you [illegible] that the reason we were baptized when [illegible] was because we had a hard journey of it [illegible] through many trying and perilous scenes [illegible] journey we had across the plains, and [illegible] through [illegible] through [illegible] language to their cattle and [illegible] and we all felt [illegible] should be re-baptized and repent of all that [illegible] had done that was not just according to the word [illegible] God. Now it was just such things as

that that made us feel that we should be re-baptized, and so we all concluded we would be baptized, and we were, but that was the reason of it.

955 Q:-And so the plural marriage covenant,-the new and everlasting covenant referred to in that revelation had nothing to do with it, had it? A:-No sir.

956 Q:-Plural marriage had not, as yet, been announced to the church? A:-There was nothing said about plural marriage in that baptism, for it was for the purpose I have stated and nothing else, that we were baptized.

957 Q:-Plural marriage had not been announced publicly to the church until after that time,-it had not been announced at that time to the church publicly? A:-Well I could not say,-what time do you refer to. If you mean the time of the reformation I can only say that I don't know whether it was before or after the reformation.

958 Q:-Well it was either the reformation or just after you came here? A:-No sir,-the plural marriage,-I don't think that plural marriage was preached directly after we came here.

959 Q:-Well it was preached in '53, was it not? A:-Yes sir it was preached in '52, but not openly in '50, and that was only related in '52.

960 Q:-Was it not preached to the church publicly prior to the publication of it? A:-I don't know. I was tried to find that out for myself, because I was tried to be the day and hour of the revelation. I was afraid that maybe I had a distaste, but by looking at the things I find out that the revelation, first received that publicly in the church, was received in '52, but it was not published in '53, it was published in '52. It was after my aunt died (speaking to her brother's daughter,-"Sue died in '52." A:-Yes my dear I know it was that time, for I remember that at the time I was waiting on your father.

By publicly,-

961 Q:-I mean after the revelation was published publicly? A:-Yes sir, for I was waiting on my sister at the time.

962 Q:-Was it not in '52 that you first heard it preached? A:-Yes sir.

963 Q:-The fact was that the revelation on plural marriage was published by Brigham Young to the church for adoption? A:-Yes sir, I suppose so.

964 Q:-Was not it on that same day that Orson Pratt preached that sermon,-that is the same day as the same building and at the time that Brigham Young submitted the accepted revelation to the church for adoption? A:-I don't know. I really can't say as to that.

965 Q:-Well what is your best recollection as to that? A:-I can't say, but I presume it was.

966 Q:-You have no doubt that it was prior to the baptism? A:-No sir, I was not. I was present voting on my sister at the time.

967 Q:-The new and everlasting covenant that was mentioned at that time,-that is, that is spoken of in the revelation on plural marriage, is the same new and everlasting covenant into which you were baptized on your coming to Salt Lake?

Question not answered, defendant objects to the question as asked

the witness for the reason "that the witness has already stated that it was not the new and everlasting covenant referred to in the revelation on plural marriage that they were baptized into on coming to the territory of Utah."
A:-No sir,there was nothing but just what I have told you about it. That was the reason we were baptized,on account of the hardships we had come through,and the difficulties we had encountered,and it was for the purpose of remitting any sins that we had committed by reason of the privations we had endured or the provocations we had met with,that we concluded to be baptized,and the question of plural marriage had nothing to do with it. It is a very simple thing and I think you ought to understand it easily.

968 Q:-Well were you re-baptized again in the reformation of '57? A:-In '57?

969 Q:-Yes ma'am? That is when the reformation took place ,-in '57,was it not? A:-No sir,for that was when we just got here.

970 Q:-You don't comprehend the question,-you got here in '47,and I am asking you about 1857 now,-I mean the reformation of '57? A:-Yes sir,that was when it was, ,-that was ten years later.

971 Q:-Now when were you re-baptized in the rformation? A:-Well it was in '57 I suppose,-it was at the same time as the rest of them,anyway.

972 Q:-Now why were you re-baptized in the reformation,or what is called the "reformation" in 1857? A:-Why?

973 Q:-Yes,-was it not because of the new and everlasting covenant that is mentioned in that revelation? A:-I don't believe that it was,because I believe,,-

974 Q:-You would not say it was not,would you? A:-Well I would not swear either one way or the other,because I can't bring it to my mind as to how that was either one way or the other. I can't bring that to my mind one way or the other.

975 Q:-Now you have taken endowments in Nauvoo,and in Salt Lake City,-you have taken them in both places? A:-Oh,yes.

976 Q:-Now madam,I will show this book marked exhibit "D" and ask you to look at the first two or three or four pages in it,and I will ask you if that is the endowment ceremony that was used at Nauvoo at the time you took your endowments? A:-(witness examines book) I can't say.

977 Q:-Well do you know anything about that? A:-I suppose I do,but I can't see this even with my glasses on.

978 Q:-You can see the pictures there,can't you? A:-I can see something.

979 Q:-Can't you see the pictures there? A:-I can see some thing,I say,but I can't tell what it is. I can see something,but I can't tell what it is or what it means.

980 Q:-You never saw any such things as is represented by these pictures in taking your endowments in Nauvoo, did you? A:-I could not say,for I cannot see what they are. I don't know anything about such pictures at all.

981 Q:-You never saw any such characters as thes in taking your undowments at Nauvoo at all? A:-I say I can't tell you,for I can't see. I could not say anything about that. I can't read that because it is such small print.

982 Q:-Well you see the pictures don't you? A:-I see something that I don't know anything at all about.

983 Q:-Well you did not see anything like this in taking

your endowments in Nauvoo,did you? A:-I say I don't know anything about that. I don't think I ever saw anything like that anywhere.

Counsel for denfendants objects to the introduction of the book regarding which the witness is being questioned,which is marked exhibit "D" for the reason that the book has never been identified,and they object to the witness being questioned regarding the matter therein contained for the reason that it is not shown by any competent witness that it contains a true and correct representation of the endowments as practiced either in Salt Lake City or that were practiced at Nauvoo,and there is nothing to show that it contains the ceremony performed at either place with reference to the endowments,or the ceremonies attending same."

984 Q:-You saw the caps and mocassins that were worn by the ladies at Nauvoo while they were taking the endowments there? A:-Yes sir,I did.

985 Q:-Now look at that picture,and see if it is something of that kind? A:-No sir,I will not look at that picture.

986 Q:-Why will you not look at it? A:-Well sir,I will tell you why I will not look at it. I am afraid to look at it,and I don't want to look at it,because if it is true it is something that we never dared to draw or make any representation of it,because it is sacred and the Lord never would allow any such things to be without manifesting his displeasure or anger.

987 Q:-Well it is here,and he don't appear to be particularly angry about it,-look at it and see if it is the same? A:-I won't look at it because I don't think it is right,-now that is my conscience about it,and I don't think it is right for me to look at it.

988 Q:-I am not asking you about your conscience,-I am asking you if that picture looks like anything you saw in the taking of the endowments? A:-I don't see anything that it looks like to me at all.

989 Q:-That represents the robe that was on the right shoulder,and that the one that was on the left shoulder in taking the onligations and the grips.,now did you see anything like that? A:-Like that?

990 Q:-Yes madam? A:-No sir.

991 Q:-These pictures represent the hall where the endowments were taken? A:-I don't know anything about it, and I don't want you to ask me any more questions a about something that I don't know anything about.

992 Q:-Well I propose to ask you all the questions I deem necessary for the proper protection of the side of this case I represent,and I will say now that if you will be patient I will be through in just a minute or two,but there is no use in protesting for I will do all I can to get through as speedily as I can,for we realize that you are a very old lady and have no desire to detain you here unnecessarily at all,and will not do so. Now,as I said,this is supposed to be the picture of the hall where the endowments were conferred,and this and that represents the aprons that were worn. Do you recognize them? A:-That is something I don't know anything at all about.

993 Q:-You did not see such as that in Nauvoo? A:-No sir, I did not see such as that at all in Nauvoo.

994 Q:-And this picture here is the picture of a apron that is represented as being worn by the women? Now do you recognize that? A:-No sir.

995 Q:-You did not wear any such a thing in Nauvoo?
A:-No sir.
996 Q:-Why do you try to evade this investigation,or why do you testify with such evident reluctance?
A:-Because those things are so sacred,-they are too sacred for any body to try to imitate.
997 Q:-You don't mean to say these are sacred in this book
A:-No sir,I don't say that,but I do say that the endowments are sacred,and nobody has any right to make light of them in any way,nor are they anything to be copied.
998 Q:-Well I have not asked you to disclose anything you said or done yet,have I? I haven't asked you to disclose anything you said or done,or anything you took an obligation not to reveal,nor am I going to do that Mrs.Thompson.
By Mr.Cabell,-"Well I would like to know what you are trying to do if it is not that. If you are not trying to get at that I would like you to state what you are driving at,-you are trying in an indirect manner to get her to tell what the ceremonies were in connection with the endowments,-the robes worn and everything in connection with it."
By Mr.Kelley,-"I am not trying to get her to state anything in connection with the endowments,nor have I asked her to state anything in connection with what was said or done there."
Re-direct examination by Mr.Hall,-
999 Q:-Now Mrs.Thompson,you stated that you never seen anything like that in Nauvoo? A:-Yes sir,I never saw anything like that there.
1000 Q:-Did you ever see anything like that in any of the endowments you went through anywhere? A:-No sir,and I don't know anything about it.
1001 Q:-You never saw anything like it either in Salt Lake City-or in Nauvoo? A:-No sir. There is no picture there that I can recognize at all.
Re-cross examination by Mr.Kelley,-
1002 Q:-Now Mrs.Thompson will you swear that the garments that are pictured in here,are not the garments that are worn in Salt Lake City when taking the endowments? A:-I would not swear.
1003 Q:-You would not swear that they are not the garments that are used here in Salt Lake City in the taking of the endowments,-that those are not the very garments that are used? A:-I say I don't know that any such things were used here.
1004 Q:-The ladies used caps here in taking their endowments? A:-Yes sir.
1005 Q:-And mocassins? A:-Yes sir.
1006 Q:-Let the record show that the daughter of the witness is urging the witness to leave the room."
By the daughter of the witness,-"You are wanted out of the room mother."
By the witness,-"Well I will wait now until they are through. She is afraid that I might say something that I ought not to say,and that is what she wants with me,but I wont say anything of that kind if I can help myself. She is afraid I might say something for want of recollection and I would not do it if I knew I was going to do it.
By Mr.Kelley,-"That is all."

3, 1

Bathsheba W. Smith, of lawful age, being produced, sworn and examined on the part of the defendants, testified as follows,-

Direct examination by Mr. Hall,-

I Q:-Please state your name to the reporter? A:-My name is Bathsheba W. Smith.

2 Q:-Where do you live Mrs. Smith? A:-I live in Salt Lake City sir.

3 Q:-State to the reporter where you lived before moving to Salt Lake City? A:-I lived in Nauvoo.

4 Q:-What state was that in? A:-In the state of Illinois.

5 Q:-State about what time you moved there? A:-When we moved to Nauvoo?

6 Q:-Yes, state about what time it was when you moved there? A:-I think it was in '40.

7 Q:-What time in the year? A:-I think it was in the spring of '40 that we moved to Nauvoo.

8 Q:-How long did you live there? A:-Until 1846.

9 Q:-State what church you were a member of, if any, while you were living at Nauvoo?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial.

A:-I never belinged to any church but the church of Jesus Christ of Latter Day Saints. I never heard it called by any other name than that.

10 Q:-Well is that the church that you belinged to?

A:-Yes sir.

11 Q:-At the time that you were living at Nauvoo, Illinois

A:-Yes sir.

12 Q:-Who was the President of that church,-if you know you may state who was the President of that church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not the best evidence.

A:-Joseph Smith, Junior, was the President of the church.

13 Q:-I will ask you to state to the reporter what you know, if anything, in regard to the principle of plural marriage, or what is sometimes called polygamy, being taught in the church there at Nauvoo, Illinois, when you were living there?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent, irrelevant and immaterial, hearsay and leading.

A:-I heard Joseph once in speaking on the stand say or assert that the ancient order would be restored to the same as it was in Abraham's day, but I never heard him sit down and teach it in private or public but that one time.

14 Q:-Is that all you ever heard him say about that?

A:-I heard him tell the sisters one time not to feel worried,-that all was right,-but he would not say what he was talking about, but I thought that was it.

Counsel for the plaintiff objects to the answer of the witness, and moves the court to strike the same from the record on the ground that it is incompetent, irrelevant and hearsay, and not responsive to the question.

15 Q:-I will ask you to state if there was,-if you knew whether there was any conversation had among the members of the church there at Nauvoo, Illinois, when you lived there, in regard to that principle,-plural marriage?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, calls for hearsay evidence and is leading.

A:-Well I heard it discussed a good many times by different ones and I remember Sister Emma speaking about it at one time about as plain

as any body.

18 Q:-When and where was that?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the groundr above set forth.

A:-It was in her room,and I was receiving my anointing for endowments,and she said if we permitted it our husbands would be taking more wives than one,and if we did not like we should be taking a detormined stand against it,or something like that,-that we should be resolute about it or something of that kind.

Counsel for the plaintiff moves the court to exclude from the record the answer of the witness above set forth,on the grounds set forth in the objection to the question to which it is an answer,and on the further ground that it purports to detail a conversation between a porson living and one dead,and is therefore incompetent under the statutes.

17 Q:-I will ask you to state who "Sister Emma" is or was?

A:-She was Josoph Smithh,Junior's wife.

18 Q:-What Joseph Smith was that? A:-Ho was our prophet.

19 Q:-What "ancient order" did you understand Joseph Smith to refer to at the time that he made the remark that you roferrod to in one of your answers?

Counsel for the plaintiff objects to the question asked the witness on the ground that it calls for hearsay testimony,is leading,and incompetent,irrolevant and immaterial.

A:-It was what was practiced in Abraham's day.

20 Q:-Well what was that? A:-It was having more wives than one. That was what I understood by it.

21 Q:-Will you state to the reporter if there was any one else that had the same understanding?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and leading.

A:-Yes sir,-we discussed it after the meeting was over,-that is,us young girls did,for I was a young girl then,and we talked a good deal about it,and some of us did not like it much.

Counsel for the plaintiff moves the court to exclude the answer of the witness from the record for the reasons set forth in the objection to the question to which it is an answer.

22 Q:-About what year was that? A:-About the year ~~XXX~~ 1840 I think.

23 Q:-I will ask you to state whether or not you over received any endowments in Nauvoo,beforo the death of Joseph Smith? A:-Yes sir.

Counsel for the plaintiff objects to the question asked the witness as well as tho naswer of the witness on the grounds and for the reasons set forth in the objection to the preceding question objected to.

24 Q:-Can you state whore? A:-Yes sir.

25 Q:-Where was it? A:-It was in company with my husband I received my endowments and my anointings in Sister Emma's bed-room,and then we went into tho lodge-room over Joseph's store,and he gave us lectures there,-he and others did that.

26 Q:-What Sister Emma did you refer to this time? A:-The same one,-Joseph Smith,the prophet's wife.

27 Q:-What subject,-upon what subject were these lectures?

Counsol for the plaintiff objects to the question asked the witness on the ground that it is incompotent,irrelevant and immaterial,leading and not tho best evidence.

A:-They were on religious subjects,-I don't know what else to tell you.

28 Q:-It was on religious subjects,you say? A:-Yes sir, the lectures were.

29 Q:-Did you receive any instructions at that time in regard to the endowments? A:-Yes sir.

Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is incompetent,irrelevant and immaterial,and leading.

30 Q:-You did? A:-Why we saw the ceremonies.

Counsel for the plaintiff objects to the answer of the witness and moves the court to exclude it from the record for the reason that it is irrelevant and not responsive to the question.

31 Q:-I will ask you to state if the endowments you received under the hands of Joseph Smith,were the same as were given in the temple at Nauvoo?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading,and is incompetent,irrelevant and immaterial.

A:-Yes sir,for I was there the first day,and continued to be there day after day.

Counsel for the plaintiff moves the court to exclude from the record the answer of the witness for the reason that it is not responsive to the question,and for the additional reasons given in the objection to the question to which it is an answer.

32 Q:-What difference was there between the endowments as taught to you and practiced by Joseph Smith,and the endowments as practiced by the church here in Utah? A:-They are the same exactly. They are the same exactly.

Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading,incompetent,irrelevant and immaterial,and does not call for the best evidence,and moves the court to strike from the record the answer of the witness for the same reasons.

33 Q:-I will ask you to state to the reporter if you are at liberty to tell the endowment ceremonies at the time they were given by Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent,irrelevant and immaterial,and is leading.

A:-No sir.

34 Q:-You are not at liberty to do that? A:-No sir,we are not at liberty to tell them to any one.

35 Q:-Will you state to the reporter if you made any promise not to reveal the ceremonies of the endowments?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent,irrelevant and immaterial,and is leading.

A:-Of course we were not to reveal them any more than the Odd Fellows or the Masons are not to reveal their secrets. I suppose they agree to keep their - secrets and we agree to keep ours,and they were not to be revealed. It would not hurt anybody to tell it or it would not hurt anybody to keep it particularly I think,but we were not to tell it.

36 Q:-And that is the only reason why you are not at liberty to tell these things?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is ~~not~~ incompetent,irrelevant

and immaterial,and is leading.
A:-We don't consider it anybody's business at all, and I don't know that anybody ever asked me any questions about it,and of course I would not tell them anything about it if they did.
Cross examination by Mr.P.P.Kelley.-
37 Q:-Where were you born Mrs. Smith? A:-I was born in Shinnstown,Harrison County,West Virginia.
38 Q:-When were you born,-that is in what year? A:-In 1822.
39 Q:-In what month in 1822? A:-On May 3rd.
40 Q:-You lived afterwards in Jackson County,Missouri? A:-No sir.
41 Q:-Did you ever live in Missouri at any time? A:-Yes sir,I lived in Caldwell County-Missouri.
42 Q:-Then you never lived in Jackson County,Missouri? A:-No sir.
43 Q:-You never lived at Independence,Missouri? A:-No sir.
44 Q:-Were you ever there? A:-At Independence?
45 Q:-Yes ma'am? A:-No sir.
46 Q:-Did you ever live at Far West,Missouri? A:-Yes sir.
47 Q:-When? A:-Well it was four miles out of Far West that I lived.
48 Q:-Four miles north of Far West? A:-No sir,I think it was south of Far West.
49 Q:-When did you live there? A:-Well it was in '39 I believe.
50 Q:-You came there in '39? A:-Yes sir,and staped there only a short time when we had to leave. We came there in 1839 and left in March after that.
51 Q:-Then you came to Caldwell County sometime in ~~March~~ January 1839? A:-No sir,It was in October.
52 Q:-In October 1839 you came to Caldwell County? A:-Yes sir.
53 Q:-And when did you say you left there? A:-In the month of October,-I mean in the month of March after that,but we came there in October. Now let me see,I may be mistaken about that,-'37 or '38. It may have been in 1838 that we came there,-in October 1838,and we left In March 1839. I think that is the way of it.
54 Q:-Then you think you came there in October 1838 and left in March 1839? A:-Yes sir,that was the way it was.
55 Q:-What time in March did you leave there? A:-It was the 9th of March.
56 Q:-Who was in the company? A:-Let me see. I am not right about that either,for it was in February that we left there.
57 Q:-You left there on the 9th of February 1839 then? A:-Yes sir.
58 Q:-Well who was in the company? A:-I remember that it was in cold,snowy weather that we left there anyway, and it was in February I think.
59 Q:-Who was in the company that left? A:-Oh there was a good many,and I could not say who they all were.
60 Q:-Were you at the conferences held in October 1838 at Far West? A:-No sir.
61 Q:-Was there one held there that you know anything of?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper cross examination.
A:-It was on the 23rd of October that we got there, and they generally held the conferences on the 6th I believe.
62 Q:-Do you know whether or not there was a conference? A:-Yes sir,I expect there was a conference.
63 Q:-But was there one that you recollect of after you got there? A:-No sir.
64 Q:-Was there one after you got there?
A:-There was no conference

held there after we got there or before we left. There was no conference of the church held during the time that we were there.

65 Q:-Now did you not hear some rumors or whisperings of the plural wife doctrine in 1838 in Far West, or in Caldwell County, when you were there? A:-No sir.

66 Q:-And you are positive of that? A:-I am positive of that, for I know I never heard of it.

67 Q:-Now when was the first time you ever heard of that? A:-It was after we went to Nauvoo.

68 Q:-Well just give us the date of it as nearly as you can? A:-I guess it must have been in 1843.

69 Q:-In 1843 you first heard of the plural marriage system of marriage? A:-Yes sir, I think it must have been about that time.

70 Q:-And you never heard of it before that time? A:-No sir.

71 Q:-You did not? A:-No sir. I heard of being married for eternity before that time, but that had nothing to do with plurality of wives at all.

72 Q:-Married for eternity and not for time? A:-No sir.

73 Q:-Did you know of anybody that was married for eternity before 1843? A:-Yes sir, I was myself.

74 Q:-Who married you? A:-I was sealed to my husband by President Brigham Young. After I had received my endowments I was sealed to my husband for eternity.

75 Q:-Did you have your endowments before that time? A:-Before I was sealed to my husband?

76 Q:-Yes madam? A:-Yes sir.

77 Q:-When did you receive them? A:-While President Joseph Smith was living I received my endowments.

78 Q:-When,-was it in 1842? A:-I don't remember whether it was in '42 or '43. President Woodruff told me the other day he had it on his record and he would find it for me, but he has been so busy he did not have time to do so, and I have been so busy,-well I do not recollect it,-that is I do not recollect the exact date that I had my endowments.

79 Q:--Has the church here a record of the endowments? A:-I think he has a journal of his own that shows it but I don't know anything about the church records, for I understand they disappeared a good while ago,-that is a good many of the records did.

80 Q:-Well you were sealed to your own husband? A:-Yes sir.

81 Q:-And you are pretty certain that it was before 1843? A:-It seems to me now that it was in 1843,-but I am not positive as to that, but it seems to me now that that was the year, but I don't know whether it was in '2 or '3,-it was either one of these years though. Let me see,-it must have been in 1843.

82 Q:-You think it was in 1843 that you received the endowments? A:-Yes sir.

83 Q:-Was it after the revelation of 1843 or before that? A:-I can't say, fot I hadn't heard about this before.

84 Q:-You had not heard about any revelation before? A:-No sir. I did not know anything about it, only for eternity.

85 Q:-You had heard of a revelation on the question of sealing for eternity before that time? A:-Yes sir.

86 Q:-Do you know where that revelation is? A:-No sir.

87 Q:-Did you ever see it? A:-Yes sir.

88 Q:-Where did you see it? A:-I saw it in the book of Doctrine and Covenants, and it is in that is it not.

89 Q:-It is in there? A:-I think so.

90 Q:-Well I don't think it is Mrs. Smith? A:-Well I thought it was in the book of Covenants,but if it is not I have seen it,-I have seen it in there too I think.

91 Q:-Well if it is in there you are at liberty to point it out? A:-Well perhaps it is not.

92 Q:-You are certain you have heard of one though? A:-Yes sir,and I have read it many times.

93 Q:-Well did you read it before you were sealed to your husband? A:-No sir.

94 Q:-You had heard of it though? A:-Yes sir. Don't you know whether there is one in here or not?

95 Q:-Well Mrs. Smith I am not on the witness stand now, and so I don't care about answering questions,but for your information I do not object to stating that it is not in there. Do you refer to the one on polygamy? A:-Yes sir. I think it is in there too.

96 Q:- Is that the one you heard of in 1842 or 1843? A:-I did not hear anything about this then.

97 Q:-In '42 did you hear anything about it? A:-I did not hear anything about it then I think.

98 Q:-Did you hear of the one on sealing? A:-Yes sir.

99 Q:-Sealing for eternity? A:-Yes sir,sealing for eternity.

100 Q:-Well that is the one I am asking you about? The one on sealing for eternity,and not this one on polygamy? Now you said in your examination in chief that Joseph Smith in 1840 taught the principle of sealing? A:-Yes sir,the principle of sealing did you say?

101 Q:-Yes ma'am? A:-No sir,that was the time I said he said the ancient order would be restored.

102 Q:-Speaking about sealing was he not? A:-Speaking about men having more wives than one I understood,-that was the general impression with reference to what he referred.

103 Q:-Well never mind what the general impression was,-the order of Abraham wasn't it? A:-Yes sir,that was it.

104 Q:-Did he mention any other name? A:-I don't remember for I did not pay much attention to it at the time.

105 Q:-Well if you did not pay very much attention to it at the time what made you think it was polygamy? A:-Well the way I considered polygamy was when a man had two wives,or more than one wife,he was in polygamy.

106 Q:-Well did Joseph Smith teach that a man could have two wives in 1840? A:-Well he was speaking about the ancient order that was to be restored.

107 Q:-Well did Abraham have more than one wife? A:-I suppose he did.

108 Q:-Well according to the record did he have more than on ewife? A:-According to the bible he did.

109 Q:-Do you swear to that?

Counsel for the defendants objects to this line of examination,and to the question asked the witness,for the reason and on the ground that it is incompetent, irrelevant and immaterial,and not proper cross examination.

A:-I do swear that the bible teaches that Abraham had more wives than one at the same time.

110 Q:-You swear that Abraham had more than one wife at the same time? A:-You had better read it and see what it says.

111 Q:-Well what do you say about it? A:-I say that he did.

112 Q:-Well what wives did he have? A:-He had Hagar and at the same time Sarai was his wife.

II3 Q:-Was Hagar called a wife? A:-Well I don't recollect what the bible says about it,but I suppose it does call her that.
II4 Q:-Don't you know she is not called a wife in the bible? A:-No sir.
Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons set forth in the last objection.
II5 Q:-Is she not called a bond woman in the bible? A:-Yes sir.
II6 Q:-And by no other name,-is that not the fact that she is called a "bond woman" in the bible,and is not called by any other name? A:-I don't know what she is called by but she was his wife,even if she was a bond woman.
II7 Q:-Do you say you do not know whether or not she is called by the name of a bond woman in the bible,and by no other name? A:-I suppose she was his wife.
II8 Q:-Does the bible say she was his wife? A:-Well she had a son.
II9 Q:-Don't the bible call he r a bond woman all the time and did not the Lord tell Abram to put the bond woman away? A:-Yes sir.
I20 Q:-That is what the bible says? A:-Yes sir,I believe it does.
I2I Q:-Now don't you know that the word wife is not used in the bible at all when reference is made to this woman,Hagar? A:-Well I presume it does,but I don't know whether it does or not,but I presume it does. But there is no doubt but that she was his wife.
I22 Q:-You say there is no doubt about that? A:-Yes sir, that is what I said.
I23 Q:-Are you willing to swear now that Abraham was the husband of Hagar,-that she was his wife,according to the history of the event or transaction that is given in the bible? A:-I believe it states that Sarah gave her to him as a wife.
I24 Q:-Are you just as confident of that as you are of anything else you have testified to? A:-Yes sir.
I25 Q:-You are absolutely positive as to that? A:-Yes sir I am sure that Sarai gave Hagar to Abraham.
I26 Q :-And are you sure the bible teaches that? A:-Yes sir.
I27 Q:-That Sarah gave Hagar to Abraham as a wife? A:-Yes sir.
I28 Q:-For his wife? A:-I suppose so.
I29 Q:-You suppose so? A:-Yes sir.
I30 Q:-Do you know whether or not the bible teaches that? A:-I don't know.
I3I Q:-If you don't know why do you say it? A:-Because I believe it.
I32 Q:-Have you read any place or history in the bible in which it is taught that she was the wife of Abraham,-that is that Hagar was the wife of Abraham? A:-Well it says that Sarah gave to Abraham he bond woman,and I would like to know what it means if it don't mean that she gave her to him as a wife.
I33 Q:-Does not the bible teach that she was a bond woman? A:-Well did not Sarah give her to him,and it don't matter what she was before she gave her to him.
I34 Q:-And did not the Lord tell Abraham to put the bond woman away? A:-Yes sir,I believe he did,-to please Sarah.
I35 Q:-Did the Lord approve of Abraham's transactions with the bond woman? A:-No sir,I suppose not,for he told him to put her away.
I36 Q:-Did not Brigham Young teach you and all the people of this church that Hagar was the wife of Abraham?
Counsel for the defendants objects to the question asked asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper cross examination.

A:-I don't know that anybody objected or found fault or thought it was not so.

I37 Q:-Were you not taught that Hagar was the wife of Abraham by Brigham Young,and the other officers of this church here in this Valley? A:-I did not need to be taught it,for I could read it,and did read it in the bible for myself.

I38 Q:-Well did you read in the bible that Hagar was the wife of Abraham? A:-I have answered the question.

I39 Q:-Will you be kind enough to answer it again? A:-I read it in the bible that she had a son.

I40 Q:-Answer my question,-did you read it in the bible at any place that Hagar was the wife of Abraham? A:-Yes sir.

I41 Q:-Where did you read that,-please point the place out where you read that? A:-Well that is what I understood by it.

I42 Q:-What is that? A:-That is the way I understood it by reading the bible.

I43 Q:-Well were you not taught it that way by Brigham Young? A:-What is that?

I44 Q:-Were you not taught it that way by Brigham Young,-that is were you not taught that Hagar was the wife of Abrahan,-just answer the question,yes or no. A:-I don't remember hearing him say anything about it.

I45 Q:-Were you taught that by Wilford Woodruff? A:-No sir.

I46 Q:-Or by John Taylor who was the President of the church here at one time? A:-Taught what?

I47 Q:-That Hagar was the wife of Abraham? A:-I could not say that I heard it taught at any time at all. I can't say as to that.

I48 Q:-Were you taught it by Orson Pratt?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and on the further ground that the witness has stated that she does not recollect of ever hearing it taught by any one at any time.
A:-No sir,I don't know that I did, I don't believe that I did. I may have but if I did I have forgotten it,but I have read the account given of it in the bible and I understood it that way.

I49 Q:-Did you read it in the bible that Hagar was the wife of Abraham? A:-Yes sir,that is the way I read it and understood it.

I50 Q:-What time were you sealed to your husband in Nauvoo?
Counsel for the defendants moves the court to strike from the record all the questions asked the witness and the answers of the witness to the questions asked with reference to the marriage of Abrahen to Hagar and everything relating thereto that has been brought out by counsel for the plaintiff in this examination, on the ground that it is not competent nor relevant to any of the issues in this case.

I51 Q:-When were you sealed to your husband in Nauvoo? A:-What time did it occur?

I52 Q:-Yes? A:-Well I think it was in 1843.

I53 Q:-In 1843? A:-Yes sir.

I54 Q:-Where was the ceremony performed? A:-In Nauvoo.

I55 Q:-Whereabouts in Nauvoo? A:-In Brigham Young's house.

I56 Q:-In Brigham Young's house you-were sealed to your husband? A:-Yes sir.

I57 Q:-By whom were you sealed? A:-By Brigham Young.

I58 Q:-Who was present? A:-I don't remember just the number.

I59 Q:-Was there half a dozen? A:-Yes sir.

I60 Q:-Was there more than that? A:-Well I should say there was all of half a dozen. There was that many there at least I think.
I6I Q:-What time in I843 was it that you were sealed to your husband? A:-I haven't got the date.
I62 Q:-Was it in August or September or October? A:-I don't remember what the date was.
I63 Q:-Well was it in the first part of the year,or the last part of the year? A:-I think it was in the ~~last~~ first part of the year,-the last part of the year I mean. I really am not sure what part of the year it was for I can't remember.
I64 Q:-Is that the time you were anointed in Emma's bed-room? A:-No sir,it was before that.
I65 Q:-What do you mean by that? A:-I mean that I was anointed before that time.
I66 Q:-You were not sealed to your husband at the time that you were anointed in Emma's bed-room? A:-No sir.
I67 Q:-What was your relation to your husband before that time? A:-I was married to him for time but not for eternity.
I68 Q:-And then in the latter part of I843 you were sealed to him by Brigham Young for eternity? A:-Yes sir.
I69 Q:-Were you married at the time of your anointings? A:-Yes sir.
I70 Q:-How long had you been married at that time? A:-I can't say,-not very long though.
I7I Q:-Well about how long had you been married at the time of your anointings,-surely you can remember about how long it was? A:-Well it was two or three years,-somewhere along there.
I72 Q:-Had you any children at that time? A:-Yes sir,I had one.
I73 Q:-What was your husband's name? A:-George A. Smith.
I74 Q:-When did you receive your anointing?,-what time in the year was it that you received that? A:-Well that was what I was asking President Woodruff about,and he said he would find it for me,but he has not had the time to do so I guess,for he has not done it.
I75 Q:-Was he present? A:-I don't remember.
I76 Q:-Well was it before I843 that you received your anointing? A:-I think it was in I843 some time.
I77 Q:-How from whom did you recieve your anointing? A:-Well I think it was from President Young the first time and in the temple.
I78 Q:-Well I mean the first time,-the time that you were anointed in Emma's bed-room,-who anointed you there at that time? A:-Well sister Mary Smith.
I79 Q:-She anointed you? A:-Yes sir.
I80 Q:-Who was she? A:-Brother Hyrum Smith's wife.
I8I Q:-What she did,-what did she do? A:-She anointed me.
I82 Q:-Just anointed your head with oil or something?
Counsel-for the defendants objects to the question asked the witness on the ground and for the reason that it is immaterial and improper cross examination.
I83 Q:-Answer the question? A:-Well that is my business.
I84 Q:-What did she do?
Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and improper cross examination,and something which the witness is under an obligation not to divulge.
A:-It is no matter what she did.
I85 Q:-What was the ceremony? A:-I cannot tell you.
I86 Q:-Do you know what it was? A:-I do.
I87 Q:-Well what was it,-we insist upon an answer?
A:-Well you can

insist upon it,but you won't get it.
188 Q:-Do you decline to answer the question? A:-Well I will not answer that question.
189 Q:-What did she do at the time you were anointed in Emma's bed-room? A:-Who? What did who do?
190 Q:-The party that anointed you? A:-She blessed me.
191 Q:-What did she say? A:-She said I was a good girl.
192 Q:-What else did she say? A:-Well it is no matter what it is she said. It has been so long ago that I would not undertake to say all that she said,even if I would tell it.
193 Q:-Did she pour oil upon your head? A:-I am not going to tell you all that she did. I am not going to tell you all about it.
194 Q:-Did she pour oil on your head? A:-I decline to answer.
195 Q:-Well,we insist upon an answer?
By Mr.Hall,-"I wish to instruct the witness that she is not bound to answer the question,-that she cannot be compelled to answer the question."
By the Examiner,-"I will instruct the witness that she will be compelled to answer the question unless she gives some valid reason why she declines to answer the question."
By Mr.Cabell,-
196 Q:-Mrs.Smith,will you state to the Examiner,whether you have taken an oath not to answer these question ,-that question,-that ceremony with reference to the anointing? A:-Yes sir,I will answer it,-there was oil poured on my head.
197 Q:-Well we have no objections to your answering that question.
By Mr.Kelley,-
198 Q:-She poured oil on your head? A:-Yes sir.
199 Q:-What else did she do? A:-She blessed me.
200 Q:-What else did she do,if anything? A:-That was all.
201 Q:-That was all that was said and done,-she just poured oil on your head and blessed you? A:-Yes sir.
202 Q:-You were not undressed at the time?
Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not proper cross examination,and on the further ground that witness has stated all that was done.
A:-I had my bonnet off.
203 Q:-That was all you had off,and the rest of your clothing was intact and properly upon you?
A:-I was clothed sir.
204 Q:-Clothed in the dress that you wore when you went in where you were when you were anointed? A:-No I don't think that I was,-not altogether.
205 Q:-Now,not altogether? A:-No sir.
206 Q:-How much change was there? A:-I thought you would be asking me something else.
207 Q:-Yes,I am asking you something else,but recollect all the time that I am not asking you to disclose anything that occurred there that you took an obligation not to reveal?
By Mr.Hall,-
208 Q:-If you are at liberty to answer these questions,or have not taken an obligation ~~not~~ to answer them,-I mean not to answer them,why answer them,and if you have taken an obligation that by answering these questions you would violate,why you need not answer them. I make this statement so that the witness may know that her legal rights are in the premises?

By Mr.Kelley,-

209 Q:-If this witness will state that she would be violating some obligation that she took not to reveal anything in connection with this matter,she can say so? A:-Well I don't think I am under obligation to tell all that occurred there,for if I state that I had my anointing that is all that it is necessary for me to state.

210 Q:-Mrs.Smith,you on your direct examination said that the anointing there was the same as it was here? A:-Well it was. That is so.

211 Q:-Well now that is a conclusion of yours,and when you assert these things as positive facts,-that is assert that the anointings there were the same as they were here,that is a conclusion of yours,and it gives us the right to go into the matter of the endowments and the ceremonies connected therewith,and ask you questions regarding it,so that the court may determine whether they are the same or not? A:-Well I can only say they were the same as I have already stated.

212 Q:-Well then I will have to insist upon my question and repeat it to you. How much change was there in your clothing at the time you were anointed by Mary Smith,the wife of Hyrum Smith? A:-In what way?

213 Q:-As compared with your clothing when you went there? A:-Well we have different clothing put on,but it is not always the same or just alike.

214 Q:-Where was the Lodge room in Nauvoo? A:-It was over Joseph's store,-in the Masonic Hall.

215 Q:-Was that the Masonic Lodge or Odd Fellow's Lodge you were being initiated into there? A:-Neither. I was not initiated into either of them.

216 Q:-Well whose hall was it you were being initiated in ,-the Odd Fellows or Masonic? A:-It was the Masonic hall.

217 Q:-It was the Masonic hall? A:-Yes sir.

218 Q:-Was it the lodge or organization of the masons into which you were being initiated? A:-No sir,-it was not the lodge,-it was the room or hall that was used by them.

219 Q:-Was this anointing for the purpose of initiating you into a secret society? A:-The endowment do you mean?

220 Q:-Yes ma;am? A:-Yes sir,that is a secret.

221 Q:-A secret order? A:-Yes sir.

222 Q:-What order was it? A:-The order of endowments.

223 Q:-Who was the chief man in the room? A:-Joseph Smith the prophet.

224 Q:-Was he sitting or standing? A:-Why both.

225 Q:-Did he have his hat on or off? A:-Off.

226 Q:-All of the time? A:-Yes sir,all of the time,-that is all of the time he was in the room.

227 Q:-Was there anybody else in the room? A:-Yes sir.

228 Q:-How many? A:-I can't tell you.

229 Q:-Well about how many was there in the room? A:-Oh, a dozen or two.

230 Q:-All ladies? A:-No sir.

231 Q:-About what proportion of them were ladies? A:-About half of them were ladies.

232 Q:-Well what were the gentleman's names that were in the room at that time?
A:-Well there was my husband and Parley Pratt,and Or-

son Pratt and John Taylor.
233 Q:-Was that all? A:-No sir.
234 Q:-Well who else was there? A:-I don't remember the names of all that were there. I remember the names I have given you,but I can't remember the names of any more of the men that were there.
235 Q:-Were any of these names you have given officers of the secret order of endowments besides Joseph Smith? A:-Yes sir,they all had their endowments.
236 Q:-Were they acting as officers that evening? A:-Some of them were.
237 Q:-Well which of them were? A:-I think the two brother Pratts were,and that brother Taylor also was,but it was brother Joseph who gave the lectures.
238 Q:-Which way did the room face,-that is with reference to the points of the compass,-was it east and west or north and south? A:-I don't remember.
239 Q:-Which side of the room was Joseph Smith on? A:-I don't remember that either.
240 Q:-Were they,-that is all the officers,-were they sitting or standing? A:-Standing I think.
241 Q:-All of them were standing? A:-Yes sir,I think so.
242 Q:-Did they have tables or desks in front of them? A:-No sir.
243 Q:-Did they have chairs in front of them? A:-I don't think they did. I don't remember. I had a seat I remember,but I don't recollect what they had in front of them.
244 Q:-You do not remember how that was? A:-No sir.
245 Q:-Was there a stand or something in each end of the room? A:-I don't remember,-
246 Q:-And one on each side of the room? A:-I don't remember now that was,but I remember there was at one end of the room a stand.
247 Q:-Did Joseph Smith stand there? A:-No sir.
248 Q:-Who did stand there? A:-There was not any one on the stand that I remember of.
249 Q:-That was a stand or platform for speaking from and not a stand or small table? A:-Yes sir,it was a platform or speaking stand. I remember there was a stand there,because when the relief society was organized we were in that room and the sisters sat there on the stand. I remember that very well,and that is how I know it was there.
250 Q:-Was that organization the same as the order of the daughters of Rebecca? A:-No sir.
251 Q:-What order was it? A:-I can't say,but I think I had that degree.
252 Q:-Was this endowment you took there different from the Order of Rebecca? A:-Oh yes sir.
253 Q:-How much difference was there? A:-They were nothing alike at all. It was not anything like it.
254 Q:-Is the Order of Rebecca a side degree or rather I should say a side order of Masonry,or is it in connection with the Odd Fellows? A:-I think it is of Masonry,for I think I had one or two degrees of it in that Lodge.
255 Q:-What lodge? A:-They belonged to the new lodge.
256 Q:-Who did? A:-The Masons.
257 Q:-What time? A:-I don't know.
258 Q:-Was it after Joseph's death? A:-Yes sir.
259 Q:-Don't you know that the Order of Rebecca is strictl

and purely an order connected with Odd Fellowship? Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper cross examination.
A:-Well it was not that. It seems to me that that was it, but if it has anything to do with Odd Fellows it was not that, but that is what it seemed to me to be, but I ain't sure of it though, for the one that I mean was connected with Masonry in some way.

260 Q:-Was it the Eastern Star that you are talking about? A:-The what?

261 Q:-The Eastern Star degree that you were talking about? A:-No sir. I can't remember to save my life what degree it was. I think I remember something about the sign or token, but I have never thought much about it, or cared much about it any way, and so I can't say exactly what it was.

262 Q:-How large was this bed-room that you referred to? Sister' Emma's bed-room?

263 Q:-Yes ma'am? A:-Well it was a pretty good sized room,-it was about the size of this room. (about twenty feet square.)

264 Q:-Was she your sister? A:-Sister Emma?

265 Q:-Yes?s A:-No sir.

266 Q:-Then what makes you call her "Sister Emma"? A:-Well she was my sister in the church,-you know how that is very well. She was my sister in the church and she was a fine woman, and I loved her dearly.

267 Q:-Was she present at the time of this anointing? A:-Yes sir.

268 Q:-Did she do the anointing? A:-No sir.

269 Q:-Did she help in the performance in any way? A:-No sir, but she was sitting there.

270 Q:-How many were in the bed-room at the time you were anointed? A:-There were seven of us I think.

271 Q:-Any other ladies besides yourself and the one that did the anointing and sister Emma? A:-Yes sir, there was two or three sisters in there.

272 Q:-Was there a bath room or a bath in the bed-room? A:-No sir.

273 Q:-Was there one connected with the bed-room in which the anointing was done? A:-No sir, I don't think there was.

274 Q:-Well I believe you stated that sister Hyrum Smith performed the ordinance of anointing? A:-Sister Mary Smith, who was brother Hyrum Smith's wife was the one that did it. There was no bath room there I think, for in those days we did not have many bath rooms.

275 Q:-Now when you went into the hall where these endowments were given, was there curtains separating the ladies from the gentlemen? A:-No sir.

276 Q:-There was not? A:-No sir.

277 Q:-No curtain drawn at any time? A:-No sir, we did not have anything like that at all.

278 Q:-Did you take an oath there then? A:-I suppose I did.

279 Q:-Well did you? A:-I promised not to tell what the ceremonies were.

280 Q:-Did you take an oath there then not to disclose anything that occurred there at that time? A:-Yes sir.

281 Q:-Who administered the oath to you? A:-I don't remember.

282 Q:-You don't remember who it was administered the oath to you? A:-No sir.

283 Q:-Was it Sister Emma or Brother Hyrum? A:-I did not take any obligations or make any promise in that room.

284 Q:-You did not take any obligation or give any promise in that connection in that room? A:-No sir.
285 Q:-Then why do you decline to state what occurred in that room? If you did not take any obligation, why do you decline to state what occurred in there? A:-Well I think it is best not to do so, for afterwards we promised not to reveal our endowments, or tell what it was.
286 Q:-That promise was not a part of the endowment was it? A:-No sir, the promise was not.
287 Q:-I mean the performance that was gone through with in the bed-room was not a part of the endowment? A:-No sir.
288 Q:-That was just the preparation for the endowment was it not,-that which took place in the bed-room was just the preparation for the endowment was it not? A:-Yes sir.
289 Q:-Then if that was no part of the endowment why do you decline to answer questions as to what took place there in the bed-room? A:-Well I think they are silly questions you are asking me, and so I don't feel like answering them.
290 Q:-That is the reason you refuse to answer them,-because you think the questions are silly? A:-Yes sir.
291 Q:-Are you to be the judge,-are you setting yourself up as the Judge as to whether or not these questions are silly? (No answer.) Did you wash before you were anointed? A:-Yes sir.
292 Q:-In the same room where you were anointed? A:-Well now is that not a silly question,-what on earth has that to do with this case I would like to know?
293 Q:-Well unfortunately for you it would not do for me to acquaint you with our object in asking these questions, and therefore as we conceive they are necessary we ask them, and expect you to answer them, for you have said you took no obligation not to tell what occurred there in the bed-room. I want to know about it, that is all, for you said you did not take an obligation not to disclose that? A:-Well I said I did not there at the time, but I did afterwards.
294 Q:-Did you take an obligation afterwards not to disclose what was done when you were making preparations for your endowments in the bed-room? A:-Yes sir.
295 Q:-You took an oath not to divulge that? A:-Yes sir.
296 Q:-Who administered the oath? A:-I do not remember.
297 Q:-Did Joseph Smith administer it? A:-I do not remember.
298 Q:-What was the oath? A:-We were told not to reveal the endowments.
299 Q:-Well was that all that was done? A:-Well no sir, I don't expect that was all.
300 Q:-Was not this all the oath that was taken there,-did not the priesthood just tell you not to say anything about it? A:-Yes sir.
301 Q:-That was the way it was? A:-Yes sir.
302 Q:-And as a matter of fact you did not take any oath at all? A:-As much of an oath as I have taken here, I did.
303 Q:-Did you hold up your right hand and be sworn there? A:-I promised not to tell it, and so I have here,-promised not to tell the truth.
304 Q:-Not to tell the truth? A:-I meant to say to tell the truth. I was sworn there not to tell it, and I have been sworn here to tell the truth.
305 Q:-And the whole truth? A:-Yes sir.

306 Q:-Well were you sworn there not to tell what you heard and saw? A:-Yes sir,not to reveal any of the secrets of the endowments.

307 Q:-Did you hold up your right hand and be sworn? A:-No sir. I do not know as I did. Did I hold up my right hand?

308 Q:-Yes madam,-did you hold up your right hand and take an oath not to reveal anything that occurred there during the time that the endowments were given to you? A:-Yes sir,I did.

309 Q:-You did? A:-Yes sir,and I don't think I ought to tell anything about it,and I think I ought not to be asked any questions about it either.

310 Q:-Who administered the oath? A:-I don't know. I don't remember.

311 Q:-Was it Brigham or President Joseph Smith,or Heber C. Kimball? A:-I don't remember about that. I don't remember who it was.

312 Q:-Don't you remember who it was,or is that one of the secrets you promised not to reveal?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper cross examination.
A:-I don't think I ought to tell anything about it at all. I promised not to reveal it.

313 Q:-Did you take an oath not to reveal it? A:-Yes sir, and I held up my hand and promised solemnly that I would not reveal it,and I will not either.

314 Q:-Do you know of any law of the church permitting secret societies? A:-Well there never has been any secret society.

315 Q:-Was not this a secret society? A:-We were not to tell what happened.

316 Q:-Don't you know the law of the church was against secret societies at that time? A:-Yes sir.

317 Q:-Well did you not go into that secret society or whatever it was in violation ~~of the laws~~ of the laws of the church? A:-No sir.

318 Q:-You did not? A:-No sir. I don't think so at all.

319 Q:-You did not? A:-I don't understand it that way.

320 Q:-The laws of the church is against secret societies and was at that time,wasn't it? A:-I think there is something said like that somewhere.

321 Q:-Where is the law on that? A:-I think there ~~was~~ is something said like that in one of the revelations.

322 Q:-Was there any law of the church that directed or permitted anointings of that kind,or any other kind? A:-I suppose there was.

323 Q:-Well was there? A:-There was a revelation to that effect.

324 Q:-A revelation on anointing? A:-Yes sir.

325 Q:-Please point it out? A:-It is a revelation on endowments,and the anointing went with them.

326 Q:-A revelation on anointing in the endowment society ~~is~~ is that what you say? A:-Yes sir.

327 Q:-Anointings outside of the temple? A:-Yes sir. Now it is just this way,-Joseph had commenced everything that ever was in this church. I don't believe that there is one single principle that he did not commence,and started everything,and all that came afterwards was simply a carrying into effect that which he had started,and did not have the time to carry into effect himself before he was taken away. I don't believe though that there has been one single principle practiced since his day but what was practiced in his day,and I don't believe that there has been anything new added.

328 Q:-That is your belief? A:-Yes sir,that is what I believe. That is what I know I may say.
329 Q:-That there is no principle taught in the church now,and has not been since his death,that was not tought in his day? A:-Yes sir.
330 Q:-Did he teach the doctrine or principle of blood atonement in his day? A:-I can't say for I don't know anything about that.
331 Q:-Did you ever hear him teach the doctrine of blood atonement? A:-No sir.
332 Q:-You never heard him preach that? A:-No sir. I don't think I ever did.
333 Q:-Well you have heard that preached have you not? A:-No sir,I don't think I have.
334 Q:-Well do you say you ever have or have not heard it preached? A:-I have never heard it preached,but I have heard a great deal said about it. I have heard of it,but I don't know that I ever heard it preached.
335 Q:-Have you not heard it preached here from the pulpit in Salt Lake City? A:-No sir.
336 Q:-Did you ever even Jedediah Grant preached it here? A:-No sir.
337 Q:-Do you know whether or not he did preach it here? A:-No sir.
338 Q:-Do you say he did not preach the doctrine of blood atonement here in Salt Lake City? A:-No sir.
339 Q :-Do you know whether or not George Smith preached it here? A:-No sir.
340 Q:-Do you know whether or not Brigham Young, preached it here? ~~A:-No sir.~~
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper cross examination.
A:-No sir.
341 Q:-You don't know whether any of these these names I have given you preached it in your hearing? A:-No sir,and I don't know that I have heard it preached by any one at all.
342 Q:-Have you not heard or read the Journal of Discourses published here in Salt Lake City,containing the sermons or lectures,or utterances delivered here in Salt Lake City,and also there in this territory by persons high in authority in the church here in this inter-mountain country? A:-I think I have,but it was long ago.
343 Q:-And don't you know that the Journal of Discourses has a number of different sermons in it that preach and teach the doctrine of blood atonement? A:-No sir I don't know it.
344 Q:-Do you say it was not taught by Brigham Young and all the apostles of this church here in Salt Lake City and in Utah Territory? All the apostles you have named? A:-No sir,and I don't believe any of them taught it. They have been charged with teaching lots of things that I don't believe they ever taught and that is one of them.
345 Q:-You don't believe they did? A:-No sir,-no more than the bible teaches it when it says "who-so-ever sheds man's blood by man shall his blood be shed."
346 Q:-Well you are just as certain of that as you are of anything else you have testified to are you? A:-Of what?
347 Q:-That they did not preach or teach blood atonement? A:-Oh,I believe that is something that has been gotten up by malice,for I don't believe they taught it any more than the bible does at all.
348 Q:-Well did they teach it at all,without reference to what the bible teaches?
A:-No sir,I can't tell you anything at all about it

for I never heard them preach any such a thing as that, and beyond that I cannot say.

349 Q:-You will not say that they did not teach it and preach it? A:-No sir, no more than I don't believe they ever did any such a thing.

350 Q:-And you say that when you heard Joseph Smith preach from the stand in 1840, he preached that the ancient order would be restored, you say he preached polygamy, do you? A:-Well if that is what Abraham practiced he did.

351 Q:-Well is that what Joseph Smith said,-that it meant polygamy,-that the ancient order that he said would be restored, meant polygamy? A:-No sir, he did not say it in that way.

352 Did he say anything about it in any way? AX-No sir, he did not talk about polygamy. He did not say anything at all about polygamy.

353 Q:-Then you never heard Joseph Smith teach polygamy did you? A:-No sir.

354 Q:-You never heard him say anything about it? A:-No sir.

355 Q:-Either publicly or privately? A:-No sir.

356 Q:-Did you ever see him sealed to anybody? A:-No sir.

357 Q:-And you lived there in Nauvoo from 1839 or 1840 up to the time that the church left there, or the dispersion? A:-Yes sir.

358 Q:-Did you don't you know that Emma Smith was his only wife there in Nauvoo? A:-I don't even know that she was his wife but I have heard so.

359 Q:-Heard what? A:-That she was his wife.

360 Q:-You knew her? A:-Yes sir, I knew her and believe that she was his wife but I did not see them married.

361 Q:-Well she was held out there to the world as his wife, weren't she? A:-Yes sir.

362 Q:-She lived in the same house with him? A:-Yes sir.

363 Q:-And she was called by his name? A:-Yes sir.

364 Q:-She was called Sister Emma, the wife of the prophet A:-Yes sir. I have no doubt in the world but that she was his wife. I am not disputing that at all,-I only say that I did not see the ceremony, but although I did not see they married I believe that she was his wife, and there is not a particle of doubt in my mind about that.

365 Q:-Was anybody else held out there as his wife publicly? A:-No sir, not that I know anything about.

366 Q:-Not while you were living there at Nauvoo? A:-No sir.

367 Q:-And down to the time of the death of the prophet? A:-No sir, not that I know anything of.

368 Q:-Were you at the funeral of Joseph Smith and Hyrum Smith? A:-No sir.

369 Q:-Where were you? A:-I was in Nauvoo.

370 Q:-Well whereabouts in Nauvoo were you? A:-I was at home.

371 Q:-You were in Nauvoo at home? A:-Yes sir.

372 Q:-And you did not attend the funerals? A:-No sir. I did not go for I was not able to do so.

373 Q:-Do you know of any member of the church having more wives than one there at Nauvoo, during the lifetime of Joseph Smith? A:-No sir.

374 Q:-And you say you lived there all the time from 1840 up to the time that he died? A:-Yes sir.

375 Q:-And you never heard of any such a thing? A:-Yes sir, I have heard of these things, but I did not know of any such things of my own knowledge.

376 Q:-You have heard of it,but you don't know it to be a fact from your own knowledge? A:-That is the way it is.
377 Q:-You never knew of any one that was held out as Joseph Smit's wife,or Hyrum's wife,other than sister Emma and sister Mary? A:-Yes sir,I did.
378 Q:-Or any of the other officers of the church? A:-Yes sir,I did. I had heard of it.
379 Q:-I mean other than Emma Smith and Hyrum's wife Those name you mentioned a while ago,and the proper wives of the various officers of the church? A:-Yes sir,I did. I heard some little talk about it, but I never heard much talk about that before their death,but I heard something about it. I know that there were several that were supposed to be their wives.
380 Q:-You had heard that? A:-Yes sir.
381 Q:-But you did not know it to be a fact? A:-No sir, but I believed it to be true.
382 Q:-You belonged to the ladies relief society there in Nauvoo,did you not? A:-Yes sir.
383 Q:-And was in the most prominent circles of the ladies there? A:-I think so.
384 Q:-And did not sister Emma,-Joseph's wife,-teach the ladies society polygamy? A:-I never heard her speak of it, in a meeting.
385 Q:-Is it not a fact that you never heard her speak of it in the meetings of the ladies relief society,or in any other society of the ladies,nor in any other public place or private place whatever?? A:- o sir, only in the room when we were getting our endowments that.
386 Q:-In the room when you were getting your endowments? A:-Yes sir.
387 Q:-That is the only time? A:-Yes sir.
388 Q:-Was she cautioning you against anything of the kind? A:-~~XXXXXXX~~ Yes sir,-well what she said,was that our husbands were intending to take more wives if we did not object,and if we did not wish it we were to be firm against it.
389 Q:-You were to be firm against it? A:-Yes sir,firm in our opposition to it. Yes she certainly said that to me on that occasion without any doubt.
390 Q:-She said she was not going to permit it? A:-I don't know what she said about it in that way,-she said as I have told you that our husbands could be taking more wives soon if we did not object,and if we did not wish them to do so we were to be firm against it.
391 Q:-Did you not say you would not permit it? A:-No sir.
392 Q:-Did you not tell her you would not permit it? A:-No sir,that was not it.
393 Q:-Well did you permit it? A:-She said if you don't wish it,-she said that our husbands,-some of them,-were intending to take more wives,and if we did not put down our foot and be determined they would do it, ,but I don't remember what else she did say,but I remember that she said that.
394 Q:-That time was that? A:-That was after we had our anointing,-It was that same day,but after we had our anointings in her room.
395 Q:-Did she tell you that there in her room? A:-Yes sir.
396 Q:-About what year was that? A:-That was I think in '46.
397 Q:-In the spring or fall of '46? A:-It was in the winter I think. I don't remember just what season of the year it was in,but I remember it was in the cold weather,but I don't know whether it was

398 Q:-You cannot remember whether it was in the winter or late in the fall? A:-No sir.
399 Q:-Well it was not long before Joseph's death was it? A:-No sir, for he was killed the next summer.
400 Q:-And this was in the late fall or winter before he died? A:-Yes sir.
401 Q:-And that was the time that sister Emma told you that some of your husbands,-that is some of the men there in Nauvoo,-were going to take more wives than one, and unless you set your feet down on it, and opposed it resolutely, they would do so? A:-Yes sir. She said that and a good deal more, for she talked a good deal on the subject, but it has been so very many years ago,-about fifty years it has been since that, or nearly fifty years,-that I can't remember just what she did say altogether on that question, but she said more than I have stated. I remember that part of it, very well.
402 Q:-Had you heard the talk then about John C. Bennett's secret wife doctrine or system? A:-Yes sir.
403 Q:-You had heard that at that time?
404 Q:-Did not the church authorities denounce that at that time? A:-Yes sir, I think so.
405 Q:-Don't you recollect they did kick Smith? A:-Yes sir.
406 Q:-They denounced him for that doctrine? A:-Yes sir.
407 Q:-And cut him off from the church? A:-Yes sir.
408 Q:-That is, cut John C. Bennett off from the church? A:-Yes sir.
409 Q:-And preached against it? A:-Yes sir.
410 Q:-They preached against it,-that is the authorities of the church did,-publicly right there in the city of Nauvoo at the time,-Joseph Smith with the rest of them,-not particularly Joseph Smith and Brigham Young? A:-Yes sir, I know they denounced him.
411 Q:-What is that? A:-They denounced him.
412 Q:-And did they not denounce his secret wife system,-that is John C. Bennett's secret wife system? A:-Yes sir.
413 Q:-And did they not say publicly that there was not any such a doctrine in the church? A:-I think not.
414 Q:-You think not? A:-No sir,-but I don't know what they said though,-I don't know all that they said, but I remember that they denounced Bennett for that.
415 Q:-And did they not publish their denunciation in the Times and Seasons? A:-I don't remember.
416 Q:-Will you say they did not? A:-I don't remember ever seeing it. It may be in there, but I don't remember ever seeing it if it was.
417 Q:-You say you don't remember ever seeing it? A:-I say I might have seen it, but if I did I don't remember it.
418 Q:-Do you remember or its being published in the Times and Seasons and about thirty members of your church including Wilford Woodruff the present President of your church signing it? A:-I don't remember now.
419 Q:-And a great many members of the ladies Relief Society also signing a statement or affidavit which was published in the Times and Seasons also denouncing it and convicting it in the strongest terms? A:-I don't remember anything about that, but it may be so.
420 Q:-How does it come that you forget this, and recollect some other things so well? A:-Well simply I suppose because I was acquainted with the other things that
421 Q:-You don't remember then the statement I have referred to? A:-No sir, for while it might have been published in the Times and Seasons

and I might not have read it although it was published there.

422 Q:-Now there was a great stir in Nauvoo about the secret wife system was there not? A:-I did not read a word about it,and I did not believe in it.

423 Q:-Did not read a word about what and do not believe in what? A:-In that secret wife business,-I did not believe in it and read nothing about it at all,for I did not want to know anything about it.

424 Q:-There was less commotion,-I mean there was a great deal of commotion about it was there not? A:-I believe so.

425 Q:-And in order to show that the church did not have anything to do with it,or the people generally,did not the officers of the church,or some one move a manifesto to the public,or an affidavit prepared, which was signed by the officers of the church,and the members of the ladies relief society,-a great many of them,including its officers,to the effect that there was no such a doctrine taught,or believed in or practiced by the church,either at that time or at any other time? A:-I don't remember it.

426 Q:-And was not that published in the official church organ at that time,the Times and Seasons? A:-I don't remember it.

427 Q:-That was the church paper at that time,-the Times and Seasons? A:-Yes sir,but I did not take it at that time,and I don't think that I read that that you have described.

428 Q:-Well do you say you did not read it? A:-I might have read it,but I don't remember one word of it if I did,and I don't think I did read it either.

429 Q:-Well let me read this to refresh your recollection I will read from page 980 of the Times and Seasons,-published October 1st 1842 as follows,-"We,the undersigned members of the church of Jesus Christ of Latter day Saints,and residents of the city of Nauvoo,persons of families,do hereby certify and declare that we know of no other rule or system of marriage than the one published from the book of Doctrine and Covenants,and we give this certificate to show that Mr. J.C.Bennett's secret wife system is a creature of his own make,as we know of no such a society in this place,nor never did." Now have you ever heard of that before?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that the book that the ~~XXXXXXX~~ counsel for the plaintiff read the foregoing extract from,-or the passage that he has read is objected to for the reason that the book from which it was taken has not been properly identified as the Times and Seasons from which the notice purports to have been taken,or published in.

A:-I don't know anything about that. I can't say that I know anything about that,and I believe his words were false anyway,for he was a wicked man,and I was pretty sure of that from what I knew of him.

430 Q:-Who was a wicked man? A:-That is Mr.Bennett was a wicked man,and I believe his words were false,and it ~~XXXXXX~~ did not require that to make me think so either.

431 Q:-Don't you know that there was a great stir there in Nauvoo at that time about John C. Bennett's secret wife system? A:-Yes sir.I did at the time.

432 Q:-And the church published him and expelled him?
A:-Yes sir.

433 Q:-And they preached against him from the stand?
A:-Yes sir.

434 Q:-And against plural marriage?
A:-No sir,there was no plural marriage about it.

435 Q:-Well the secret wife system? A:-Yes sir.
436 Q:-And secret marriage? A:-Yes sir. What is it they called-it,-was it not "spiritual wifery" or something like that?
437 Q:-Well they preached against the spiritual wife system did they not,-that is the officers and leaders of the church did? A:-Yes sir.
438 Q:-And the spiritual wife system was the system by which a man had two wives at the same time? A:-Yes,-i.e.no that was not the way I understood it.
439 Q:-Well what was the spiritual wife system? A:-The spiritual wife system was if a man had a wife living one & wife dead,if she was sealed to him that was his spiritual wife,-the dead one was.
440 Q:-Was that the doctrine of John C. Bennett? A:-That was the way John C. Bennett talked it.
441 Q:-Well then John C. Bennett's theory or doctrine did not allow a man to have more than one wife living at the same time? A:-I don't know about that. I don't think he said.
442 Q:-Did he not preach it,and have more than one wife at the same time? A:-Well no,but he had better had.
443 Q:-Did he not have several women there in Nauvoo at the same time,and was not that the cause of the trouble there in which he figured? A:-Well some of my young friends I know,--
444 Q:-And did they not turn his house over into the ditch because he had so many wives? A:-Well he did not have many wives,-I did not understand that he had many wives,-
445 Q:-Did he not have several women there that he had as wives? A:-I don't know remember they were his wives or not. I don't know anything about that.
446 :-Well didn't he have several wives or women there that he cohabited with? A:-Well there was several young girls went there I know,one of whom I was well acquainted with.
447 Q:-Well that was the spiritual wife doctrine,and he called them mistresses? A:-No John C. Bennett did not pretend that he was present at anything like that. He did not pretend to say anything like that as I understood it. He was denouncing that in other people as I understand it.
448 Q:-Then this certificate that says that "John C. Bennett's secret wife system is a creature of his own make" is false? Is that what you say now? A:-Yes sir.
449 Q:-Then he did have secret wives? A:-No sir.
450 Q:-He did not,and yet you say that certificate which says that his secret wife system is a creature of his own make is so? A:-Yes sir,for John C. Bennett never had any wife that I knew anything of,-he never had one wife that I knew anything of in Nauvoo.
451 Q:-Well I would like for you to state what was his secret wife ~~system~~ doctrine that they did fit to denounce? A:-Well he was trying to put it on some one else,-that some one else had secret wives I suppose.
452 Q:-Was he charging members of the church with it? A:-That must have been it I think.
453 Q:-And then the church said there was no such thing in the church? The officers of the church signed that certificate certifying to the fact that there was no such a thing in the church?

A:-Yes sir.

454 Q:-No such a doctrine in the church? A:-No sir, ~~no sir~~ no such a doctrine as he had.

455 Q:-No such a doctrine as he had? A:-No sir, and I don't believe there was either.

456 Q:-Now I will read you this from the Ladies Relief Society of which you were a member? A:-All right.

457 Q:-It is from the same book and page as that which I just read to you,-namely on page 940,-"We, the undersigned officers of the Ladies Relief Society, and married females, do certify and declare that ~~that~~ we know of no system of marriage being practiced in the Church of Jesus Christ of Latter Day Saints, save the one contained in the book of Doctrine and Covenants, and we give this certificate to the public to show that J. H. Bennett's "secret life system" is a disclosure of his own make." Now that is the certificate, as it is signed by Emma Smith, President;,-Elizabeth Ann Whitney, Counselor,,Sarah M. Cleveland, Counselor,,Eliz. R. Snow, Secretary,,and the following ~~Emma~~ officers,-Mary C. Miller,,Lois Cutler,-Thirza Cahoon,-Ann Hunter,-Jane Law,-Sophia R. Marks,-Willy M. Jordan,-And all Works,-Catherine ~~Bakker~~-Pettey,-Sarah Hicher,-Phebe Woodruff,-Lenora Taylor,-Sarah Gilman,-Rosanna Marks,-and Angelina Robinson. Now what do you say to that?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper examination, and on the further ground that the plaintiff ~~[illegible]~~ has not shown that the extract read from the book referred to (and which is objected to for the same reasons as were stated in the objection here-to-fore made when the certificate signed by the officers of the church was offered in evidence) is a book that was published by the authority of the church, or that the part of said book just read to witness was published by authority of the church.

A:-Well sir, I believe that that shows that they simply denounced him and his doctrine, and I believe that is all that is to be understood by it, and all they meant.

458 Q:-Was this certificate signed by the Ladies Relief Society of which you were a member, was true then was it not? According to the best of your recollection and belief you may state whether or not it was true? A:-Yes sir, and my best recollection is that that John J. Bennett's doctrine was all false.

459 Q:-And as such was denounced by the members of your society? A:-Yes sir, perhaps that was so, but as I told you before I did not remember this well enough to say positively how it was.

460 Q:-You heard the record that I have read here? A:-Yes sir.

461 Q:-Do you recognize them as being members of the Ladies Relief Society? A:-Yes sir, some of them I do, but I have no doubt but that they all did. I see that the members of our society denounced it, but I was not there at the time that that action was taken so I cannot say what was done, but I presume their action is correctly reported there.

462 Q:-Was it true at that time that there was no other rule with reference to marriage practiced other than that set forth in the book of Doctrine and Covenants? A:-As to my knowledge there was not.

463 Q:-That was the only method of marriage? A:-Yes sir.

464 Q:-Was that disclosed in the book of Doctrine and Covenants? A:-Yes sir, that was it, and I was married by that myself.

465 Q:-Now in your examination in chief you said that you

heard Joseph Smith at one time say to the sisters, that all was well,and you understood what he meant by that? A:-Yes sir,I heard him sayYthat the ancient order of marriage would be revived,and we all understood that he meant by that polygamy or plural wives. That is what we all understood he meant by that,and I think that was the only meanin that could be attracted from it.

466 Q:-Well now as a matter of fact did he say anything about polygamy? A:-Well he did not use the word "polygamy" but he said "some of your sisters are in trouble" and he went on to say "you don't be alarmed all will be well in the end" or "all will be right in the end" or something like that.

467 Q:-Were the sisters worrying over polygamy? A:-I don't know what was the matter,but I remember that he said that.

468 Q:-Well I ask you worrying over the question of polygamy? A:-No sir.

469 Q:-Do you know any of the girls who were? A:-No sir.

470 Q:-And so you just jumped to the conclusion that that was what he meant? A:-Yes sir. I did not at that time. I did afterwards when I thought over it.

471 Q:-And if any of them were worrying over it,Joseph Smith gave them to understand that it was all right, that there was no such a thing in existence? Is that not the fact,that they worrying over that very thing and he gave them that assurance to set their minds at rest? A:-No sir,he did not say there was not any such a thing,but he told them it was all right.

472 Q:-Did he say that polygamy was all right? A:-No sir, he did not say any such a thing. I never in my life heard him mention the word polygamy.

475 Q:-You never heard him mention polygamy you say? A:-No sir,I never did.

474 Q:-Did you ever hear him mention sealing? A:-Yes sir.

475 Q:-Sealing for time and eternity? A:-Yes sir.

476 Q:-Was it for time or for eternity? A:-It was for both time and eternity,but I did not know at the time,-I did not know anythin about anythin but one wife. I knew I was sealed myself.

477 Q:-Who were you sealed to? A:-Of course I was sealed to my husband and I was sealed to him for time and eternity. I knew that but I did not know anything more about it than that.

478 Q:-Well now was not the sealing that was practiced by the church under Joseph Smith a sealing of a man's wife to her husband? A:-Yes sir.

479 Q:-That was what it was? A:-Yes sir.

480 Q:-He did not,the sealing of somebody else's wife to your husband? A:-No sir,he did not either.

481 Q:-He didn't either? A:-No sir,that is what I said.

482 Q:-And you never saw him seal some one else's wife to some other man,did you either? A:-No sir.

483 Q:-Was it about 1840 that you received your endowments in Pace's bed-room? A:-I think it was in 1843.

484 Q:-Yes I believe you did say it was in the fall or winter of 1843? A:-Yes sir.

485 Q:-Well I believe that is all.

Re-direct examination by Mr.Hall,-

486 Q:-Now Mrs.Smith you stated in your examination in chief that you had conversations with several in regard to this question of plurality of wives,- this question of plural marriage,-I believe you sta-

ted before the death of Joseph Smith? A:-Yes sir.

487 Q:-Now state to the reporter if you can, some of the parties that you talked with about that question?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper cross examination and hearsay.

A:-I think the main one was Sister Emma Smith. Of course we talked to each other about it a little bit but I did not pay much attention to it, for I was not concerned about it myself,-I hadn't any trouble myself, but of course we talked to each other a little about it, but not much. It was a kind of a private thing that we did not care to talk much about, for we did like Paul directed, we went to our husbands if we wanted to know anything, or wanted advice and direction,-when we wanted to know anything we went to our husbands instead of going to our neighbors when we wanted to know anything about sealings as we did not understand and if they did not know then to advise us they secured the information and gave it to us.

488 Q:-Now you stated in your cross examination that you did not know any one that was publicly known as the wives of Joseph Smith? A:-Yes sir.

489 Q:-Now I will ask you if you know any one who was considered as his wife, but not publicly?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, leading and hearsay.

A:-I can't tell you that I did. I can't say that I did or that I did, but I got acquainted in the temples, and they told me that they were his wives. Different ones did, but I don't remember one in his life time that I knew was his wife, or who told me that they were his wives.

490 Q:-Now you were asked the question if there was any doctrine taught in the church to the effect that a man could be sealed to some one else's wife

A:-Yes sir.

491 Q:-Now will you tell the reporter if you remember that there was any thing said in regard to a man being sealed to a woman, that was not secretary also's wife?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and is leading, and does not call for the best evidence.

A:-I believe there were a lot many women that were sealed to Joseph Smith in his life-time, but I never was present at the sealing of any one of them to him.

Counsel for the plaintiff objects to the answer of the witness, and moves the court to exclude it from the record as incompetent, and an opinion of the witness, and not a statement of fact.

492 Q:-You cannot say whether there was or was not any such a principle taught? ~~XXX~~ A:-When?

493 Q:-In the life-time of Joseph Smith? A:-Yes sir, I believe it was taught, for I know that Sister Emma referred to that. I knew that I heard of it before she referred to it, but I had not been worried about it myself, but I heard there was such a thing taught before she spoke of it, or mentioned it to me, but there was not one of them that ever came to me and told me that she was Joseph's wife until after that, until after he was dead I think.

494 Q:-They told you that after Joseph's death? A:-Yes sir.

495 Q:-They told you that they were, or had been Joseph's wives? A:-Yes sir.

Counsel for the plaintiff objects to the answer of the witness to the question asked, as well as the question on the ground that it is incompetent, irrelevant and immaterial, leading and is hearsay, and moves the court to strike the answer from the record for the reasons above given.

496 Q:-How will you state to the reporter if those parties who referred to the principle of plural marriage before the time that you speak of, spoke to you about it,-state whether they were members of the church or not?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds above set forth.

A:-Yes sir.

497 Q:-Who were they? A:-They had spoken to me about it before the time that I spoke to me about it, and they were sisters in the church, but remember that at that time I had not heard any one say that they were wives of Joseph, but we heard that they sealed to Joseph before his death, and before we had our endowments. How long after that this came to us was that day I was taking my endowments.

498 Q:-Do you state to the reporter whether or not you heard any mention of a revelation, that was given on that subject by Joseph Smith, in any of these conversations?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent, irrelevant and immaterial, is hearsay and leading, and not proper re-direct examination.

A:-I express I have heard of it, but if I have I don't remember it. I can't remember the day and date and all about it, but of course I believe there had been a revelation upon that subject. When Sister Zina talked with us upon the subject, I believe that it was since there had been a revelation on the subject.

Counsel for the plaintiff objects to the answer of the witness, and moves the court to strike it from the record on the ground that it is incompetent, hearsay and immaterial.

499 Q:-Did Sister Zina say anything to you about a revelation? A:-I don't remember what she said, but I remember that distinctly,-I distinctly remember about her saying that our husbands were intending to take wives if we didn't hinder it.

Counsel for the plaintiff objects to the question and the answer of the witness for the reasons above set forth.

499 Q:-That is all I believe?

Cross examination by P.P.Kelley,-

500 Q:-Did she say anything about sealing, or a revelation on that subject at that time? A:-I don't remember, but I presume she did. She said a good deal more than I can state here for I don't remember it, and it is probable that she said something on that.

501 Q:-Well do you remember that she did? A:-I don't remember that she did.

502 Q:-Do you remember that she did not? A:-I don't remember anything about what she said only what I have told you, but I do remember that she talked with us quite a little bit,-she talked quite a while to us, but what she said I cannot remember.

503 Q:-Now Mr.Hall got you XXXX to say that you had heard talk there amongst the women about a man being sealed to a woman? A:-Yes sir, I had heard of that.

504 Q:-About a man being sealed to different women?
A:-About women being sealed to men.
505 Q:-Well it was about a woman being sealed to different men,-I mean a man being sealed to different women? A:-Well that was not what he meant.
506 Q:-Well that was what the question was,and you answered it "yes" or in the affirmative? A:-Well I answered it that way because I knew he did not ask it right,-it was just as if he had asked me if women were sealed to women.
507 Q:-Then you want to go on record here as swearing that you heard it talked of at Nauvoo,that a man could be sealed to two different women? A:-Well I meant to say that two different women could be sealed to one man,but a man could not be sealed to two women, or two different women could be sealed to one man,-a man could have two different women sealed to him,but he cannot be sealed to them.
508 Q:-Do you say that was talked about there in the church at Nauvoo while you were there? A:-Yes sir.
509 Q:-In what way it was talked about? A:-It was talked about among the sisters?
510 Q:-That was just gossiped about among the ladies,-is that what you mean to say? A:-About a man having more than one wife?
511 A:-Yes,that was just the gossip that passed among yourself and the other ladies there,-is that not the fact,-that that was just the sort of gossip among the ladies there? A:-Yes sir,certainly,we talked about it.
512 Q:-Was it preached from the stand? A:-No sir,of course not,because it was a penitentiary act to do it.
513 Q:-Yes of course it was? A:-Yes sir.
514 Q:-You mean that? A:-I expect I did.
515 Q:-How was it a penitentiary act to preach it? A:-Well I could know that it was to accept it,but it was to practice it.
516 Q:-You think it could not have been a penitentiary act to preach it,but it would have been to practice it, there? A:-Yes sir,I think it would have been in Illinois,and I guess it would have been also in Massachusetts.
517 Q:-Do you think Joseph Smith would have gone into it if it had been a penitentiary act? A:-I believe he had to go into it.
518 Q:-Do you believe he had to go into it,or did go into it? A:-Well I said I never was present when he had a wife sealed to him,and so I can't say as to that,but I have seen many a man and woman that was married even they were sealed to him.
519 Q:-How do you know they were present? Do you know it from what they said? A:-Yes sir,from what they said, for I was not there.
520 Q:-They told you they were present? A:-Yes sir.
521 Q:-And they told you that after he was dead? A:-Yes sir.
522 Q:-You never heard it before he died? A:-Yes sir.
523 Q:-Heard what? A:-That he had women sealed to him,but I never had any of them tell me so before he died.
524 Q:-Did you ever hear a woman say before he died that she was the wife of Joseph Smith? A:-No sir,I don't think they ever did before he died,but after he died they did.
525 Q:-Since he died there has been a great many women say they were his wives,or were sealed to him? Is that not the fact Mrs.Smith? A:-Yes sir.
526 Q:-They have been willing to come up and show themselve

a great many of them? A:-Yes sir,some.
527 Q:-You can find thirty five or forty of them here in Salt Lake City,or in this territory? A:-Well not that many I don't think. I guess not that many of them.
528 Q:-Well twenty five or thirty of them,say? A:-No I don't that many either.
529 Q:-Well this historian,Jenson,does he not give the number as twenty seven? A:-No I think not. That refers to President Young,does it not? I don't know how many there was of Joseph's wives here.
530 Q:-Were you not about Joseph Smith's house in Nauvoo often? A:-I was.
531 Q:-Often? A:-Yes sir,quite frequently.
532 Q:-Did you see the women there,-ten or a dozen women living there with him? A:-I can't say how many there was,but I saw women there that I thought were his lives.
533 Q:-That you thought were his wives? A:-Yes sir,I supposed they were.
534 Q:-Why did you suppose it? A:-Well I did not at the time,but I afterwards supposed they were his wives.
535 Q:-You supposed it afterwards? A:-Yes sir.
536 Q:-Who was the woman? A:-Melissa Scott was one. I believe you have seen her,and she put it down in her bible the day she was sealed to him.
537 Q:-Who was she doing there? A:-She was working there for Sister Emma when I saw her.
538 Q:-Well what was she doing,-what is your idea of work was she engaged in? A:-She was a young girl or woman or something of that kind.
539 Q:-Are you willing to go on record as saying that Joseph Smith married his serving girls? A:-Married them?
540 Q:-I asked you if you were willing to go on record as saying that Joseph Smith married his servant girls? A:-Yes sir,I say,for a servant girl is as good as any body,-if they are good they are just as good as anybody.
541 Q:-So the fact is then that Joseph Smith got girls to work for him and then married them? A:-Yes sir,I could take care of his business to go with the hired girls,for he was a man of sense about his business.
542 Q:-Well she got,then to work for him,and then permitted her husband to marry them? Is that the way it was? A:-Yes sir.
543 Q:-And that you are willing to go on record as swearing to? A:-Yes sir,for I believe she did give some of them to him with her own hand.
544 Q:-Joseph Smith was a relative of your husband? A:-Yes sir.
545 Q:-What was their relationship? A:-They were first cousins.
546 Q:-And you visited there often? A:-At Joseph's place?
547 Q:-Yes sir? A:-Yes sir.
548 Q:-You never suspected that he had any other wife but Emma until after the time of his death,and had no reason to suspect it? A:-Yes sir,I had reason.
549 Q:-Well did you suspect it? A:-Yes sir.
550 Q:-Well who was it you suspected of being his wife? A:-Louisa Beeman. She was the first one I suspected.
551 Q:-Did she go by the name of Smith? A:-No sir.
552 Q:-What name did she go by? A:-Louisa Beeman was her name,and that was the name she went by.

553 Q:-Did Melissa Scott go by the name of Smith?
A:-No sir.
554 Q:-She went by the name of "Melissa Scott" ? A:-Yes sir.
555 Q:-Where did Louisa Beeman stay A:-I believe she lived with her sister,-Noble.
556 Q:-Did she live with Joseph Smith in his house at any time? A:-No sir.
557 Q:-She never lived with Joseph Smith, or in his house as her residence? A:-I don't believe she ever did.
558 Q:-Well what makes you suspect her of being the wife of Joseph Smith? A:-Well I heard it.
559 Q:-And that is what causes you to believe that she was a wife of Joseph Smith? A:-Yes sir, and I knew her, too. I believe it was so.
560 Q:-Is it not because she was stated to your knowledge, that she was his wife? A:-Yes sir,-No sir, not to my father, for there was none of the said they were his wives while he was living. They did not tell me that until after he was dead, but I suspected her before he died.
561 Q:-Is it not a fact that you believe that because of the fact that she has stated it to you since he died? A:-No sir, not that, for I had a lot many reasons to know that he was more than one wife. There was a number of things about that.
562 Q:-You had a good many reasons to believe he had more than one wife you say? A:-Yes sir.
563 Q:-Well what were they? A:-Circumstances.
564 Q:-Did you ever see him out to church with any one except Lucy as his wife? A:-Yes sir.
565 Q:-Did they live with him, and be one from church? A:-No sir, I have seen them have gone to his area.
566 Q:-Did you ever see Brigham Young at his area? A:-Well, I have seen Mrs. Lucy, if you want to know.
567 Q:-Was Lucy Walker his wife? A:-Yes sir.
568 Q:-Well she is one? A:-Yes sir.
569 Q:-Well who else have you seen? Was she married to him? A:-No sir?
570 Q:-Was Lucy Walker his wife? A:-You can't prove it by me for I was too young at that, but I believe it.
571 Q:-Did she ever have a husband at that time? A:-Yes sir.
572 Q:-Well how could she be married to Joseph Smith if she was living at that time? A:-Well I believe she was sealed to him for eternity.
573 Q:-Sealed to him for eternity? A:-To Joseph Smith.
574 Q:-Is that what you mean by "marrying" or "married",-sealed to him for eternity? A:-Yes sir.
575 Q:-Is it what you mean by being "his wife"? A:-Yes sir, but sometimes they are married for time and eternity, and sometimes only for time. Sometimes for time and sometimes for eternity.
576 Q:-And she was sealed to him for eternity? A:-I believe she was.
577 Q:-But you don't mean to say that Joseph Smith had three wives living with him as his wife? A:-No sir, I mean that she was sealed to him for eternity, and I think that it was a good thing for her, for she will be much better off in eternity,-much better off in the next world than if she had stuck to her.
578 Q:-Do you believe a woman can't be saved unless she is sealed? A:-I believe every woman has to be sealed in order to be exalted.
579 Q:-In the hereafter? A:-Yes sir.
580 Q:-Is that the doctrine of the church out here in Salt Lake now?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper re-cross examination, and does not call for the best evidence of the fact, but calls for an opinion of the witness.
A:-Yes sir.

561 Q:-That is the doctrine of the church here in Salt Lake at the present time? A:-Yes sir.

562 Q:-And it is the doctrine of the church as taught and not in the church in Utah Territory under the administration of President Woodruff? The doctrine is that a woman cannot be exalted in the hereafter unless they are sealed.
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that the books which contain the doctrine of the church are the best evidence of what the church teaches, and of its doctrine.
A:-Yes sir, we believe that they cannot be exalted in the celestial kingdom,-that is the man will be alone and the woman will be alone.

563 Q:-That is what the church teaches now? A:-Yes sir.

564 Q:-For that is what you have been taught by the officers of the church here in Salt Lake City since you have been here in Utah Territory? A:-Yes sir, and I was taught the same in Nauvoo also.

565 Q:-Do you swear positively that you were taught that in Nauvoo while you were there? A:-Yes sir.

566 Q:-Who taught it to you there? A:-Joseph Smith.

567 Q:-Did he teach it personally? A:-Yes sir.

568 Q:-When did he teach it to you? A:-Well I can't remember just the day and date when he taught it to me, but he taught it, or I could not have been sealed to my husband.

569 Q:-Well when did he do that? A:-After he gave us our endowments, and he taught us to have our prayers answered and so on.

570 Q:-Did Joseph Smith teach you that a man must have more than one wife? A:-Who he exalted?

571 Q:-You mean? A:-No sir. I never heard of that.

572 Q:-But you were taught that a man must be sealed to his wife? A:-Yes sir, that his own wife must be sealed to him.

573 Q:-But you were never taught by Joseph Smith that a man must have two wives sealed to him? A:-No sir.

574 Q:-He did not teach that, nor did any one else teach that in Nauvoo after Joseph Smith's death?
A:-Yes sir, I believe they did, but I don't know it for certain. I only thing they did, for I don't know anything positively about that.

575 Q:-Well not that teach here in Salt Lake City,-President Woodruff and President Young, and President John Taylor, taught you or all the rest of the ladies, here in Salt Lake City that attended church that a man must be sealed? A:-No sir.

576 Q:-Well what was it? A:-That a woman must be sealed to a man, but not a man sealed to a woman.

577 Q:-That a man in order to be exalted in the kingdom celestial must have more than one wife? A:-Yes sir, they taught that a man could have more than one wife.

578 Q:-That is what they taught? A:-Yes sir.

579 Q:-And that was a means of exaltation? A:-Yes sir, and I believe that Joseph said that a man that had one wife had a jewel, and a man that had more than one wife had more jewels.

600 Q:-To did you say said that? A:-Joseph Smith.
601 Q:-Did you hear that? A:-Did I hear him say that?
602 Q:-Yes madam? A:-No sir.
603 Q:-You are not willing to swear to that as a fact?
A:-No sir,but I have heard that a good many times.
604 Q:-Do you say that is an expression of Joseph Smith's
A:-Yes sir,I so understand it.
605 Q:-Can you not, you know that it is in a sermon of
Brigham Young's, preached after Joseph Smith's death?
A:-Well I think I have said that.
606 Q:-But you are not willing to swear that he did say
that? A:-No sir,I am not willing to swear that he
said it, but I think that he said it, for I think I
have heard it at the time he said it.
607 Q:-Are you in the person you believe it? A:-Well I
believe everything he taught, and I am ready to say
that I am just as certain it was right as I could
be of anything.
608 Q:-Can you not have it say that in that and a
[illegible] jewel, and the part that has more than one
[illegible] meanings? A:-No sir,for I believe he
[illegible] it.
609 Q:-[illegible] it occur [illegible] tell you
[illegible] A:-Yes sir.
610 Q:-[illegible] everything that would well and?
A:-[illegible]
611 Q:-But you believe that-? A:-Yes sir, I believe that
[illegible] it could do.
612 Q:-You have believed he could [illegible] up
anything? A:-Well hardly anything.
613 Q:-You thought he was wrong at? A:-I thought so
[illegible] effect [illegible] A:-No sir,I thought
[illegible] I thought [illegible] I thought [illegible] as
[illegible] I did [illegible] time
[illegible] uninspired.
614 Q:-[illegible] A:-[illegible]
615 Q:-[illegible] A:-[illegible]
616 Q:-Will you say [illegible] A:-[illegible]
[illegible] I [illegible] time,-
[illegible] I
[illegible] likely [illegible]
[illegible]
617 Q:-[illegible] that he was inspired at the time that
[illegible] told you that he was not inspired? A:-Yes sir.
618 Q:-Don't you remember the circumstance of the effect
that he was not inspired? A:-No sir.
619 Q:-Don't you remember that he at one time declared
that he was not inspired? A:-No sir.
620 Q:-And that [illegible] A:-No sir,I don't recollect that either,
[illegible] I forget any time. He was all the time inspired,
[illegible] I think as a general thing he was. I know that I
[illegible] perfect faith in him in everything that
he taught, and if he taught anything I believed it
was the truth, or he would not teach it. That is what
I believe, for I believe that everything he taught
was right, and righteous if it had been carried out
right.
621 Q:-Will you be taught, when he preached from the pul-
pit, or platform, any where he preached, the doctrine
of the church at late even in the Bible the Book
of Mormon and the book of Doctrine and

covenants,is that not it? A:-What is the question?
623 Q:-I asked you if it is not a fact that can be preached from the platform any where or from the pulpit or stand,-when he preached publicly and laid down the doctrines of the church,he taught the doctrine of the church as it is laid down in the bible,the book of Mormon,and the book of Doctrine and Covenants,did he not? A:-Yes sir.
624 Q:-And that was the doctrine of the church,as you understood it? A:-Yes, sir.
625 Q:-And that was the only doctrine there was in the church was it not? A:-Yes sir,but when he gave us our endowments I thought that was rather novel, or when he introduced again, for time and eternity that was another.
626 Q:-Was it not simply according to law and remaining, rather in the progressive nature of the doctrine of the church? A:-Yes sir.
627 Q:-Did the church at any time direct that the endowments be given? A:-Yes sir.
628 Q:-When? A:-Before Joseph died.
629 Q:-I do not believe, perhaps, to the question,-I mean was it at the period had died or just prior to the time my endowments should be given? A:-Just prior.
630 Q:-When did they authorize it? A:-Before Joseph died.
631 Q:-When did they take that action? A:-It was done by authority of President Joseph after he was killed, another was Hyrum.
632 Q:-When did they do it? A:-I believe it was in 1843.
633 Q:-Do you recollect? A:-Yes sir, it was in January.
634 Q:-And they submitted that question to the people and it was voted on? A:-Yes sir.
635 Q:-Who was it submitted to? A:-To the twelve and the church.
636 Q:-To the twelve and the church you say? A:-Yes sir.
637 Q:-Was the report, was it submitted to? A:-Yes sir,I believe that was it.
638 Q:-Do not the rules of the church require that the doctrine of the church shall be submitted to the church as a body and be recognized by the church in order to make it a law binding upon the church? A:-Yes sir,I believe it is so.
639 Q:-Well was that submitted to the church,or only to the twelve? A:-Well to the church,-I think that was the intention,and I have been led to say that I had no right,-if in case a revelation has been no right to screen it or withhold it until we have submitted it.
640 Q:-Until it was submitted to the church? A:-Yes sir.
641 Q:-To the whole church? A:-Well not to the whole church but to members of the church.
642 Q:-To what part of the church was it to be submitted? A:-To the twelve apostles.
643 Q:-Well were all the revelations that were submitted to the church,that were received during Joseph's time,submitted to the whole church,or voted on by the general church? A:-No sir.
644 Q:-Do you swear positively that were not? A:-Well not by all the church.
645 Q:-Well were they not submitted to the church when came to a general conference? A:-Yes sir. All that chose to come to the conference voted it,and so it was with the revelation on celestial marriage, for I was told that it was voted on in that way.
646 Q:-But you were not present? A:-No sir.
647 Q:-You were simply told that it was voted on in that way? A:-Yes sir.

673 Q:-And you believe that statement in the face of the statement that there were two or three voted against it? A:-I believe it was all right anyway, but I can't tell you whether I heard that or not.

674 Q:-Did you not just say that you heard that it was adopted by the High Council with the exception of two or three that voted against it? A:-I said I heard that they was only two or three that did not agree with it, but I don't know who told me that or where I heard it. I can't say whether I heard it from them or not.

675 Q:-Tell you heard there was two or three voted against it? A:-Yes sir,-one or two at any rate.

676 Q:-Did you not say that there was one who claimed that it was never submitted to the High Council at all,-one of the High Council who made that claim? A:-Well I don't know that I said that, but I have heard that.

677 Q:-You have heard that,-that there is one member of the High Council who made the claim or statement that it was never submitted to the High Council at all? A:-Yes sir, I have heard that.

678 Q:-Don't you know that the rules of the church require that it must be accepted by the unanimous vote of the High Council before it can become a church law? A:-No sir, I don't know that it must be unanimous,-I believe it has to have the consent of the majority of the members of the High Council.

679 Q:-Don't you know that all the concerns must be unanimous,-that there can't be more than one of the members that can vote against it? A:-No sir, I don't know that.

680 Q:-Do you say that is not the law of the church? A:-No sir.

681 Q:-Is that not the law of the church, and has it not been the law of the church since 1835? A:-Well I can't say. I don't know whether it is or not.

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it calls for an opinion of the witness, and does not call for the best evidence of the fact.

682 Q:-Do you say that you do not know that the law of the church is on the question of the acceptance of the church law? A:-I say that whatever the law says about it is correct.

683 Q:-And don't you know that the High Council of the Saints was not the proper council to submit it to at all?

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons above set forth.

A:-Well I don't know that. There was all that it was submitted to.

684 Q:-Well was it submitted to the quorum of seventy? A:-I can't say, but I think because that perhaps it was submitted to the quorum of twelve.

685 Q:-Well was it submitted to the quorum of twelve? A:-I believe it was.

686 Q:-Was you there,-or who told you that it was submitted at all? A:-I don't know.

687 Q:-Did anybody tell you that? A:-Yes sir.

688 Q:-Well who was it told you that? A:-Somebody told me but I can't remember who it was now.

689 Q:-Well was it submitted to the quorum of elders? A:-I don't know because I did not meet with the elders and so I cannot say.

690 Q:-Well did you meet with the High Council? A:-No sir.

691 Q:-Did you ever meet with the Twelve? A:-Yes sir, I did at times.

692 Q:-Did you meet with them when this purported revolution on polygamy was submitted? A:-No sir.

understood by it. I tried to make the sisters at first believe that it meant but one wife,but it is as much as a bargain for you to extract that meaning out of it,-it is a hard thing to make it mean that.

714 Q:-Well now let us understand each other,for this is what I am getting at Mrs.Smith,-when the question of sealing was discussed in 1842,-first discussed,-in 1842 or '3 there,there was a revelation on sealing,-on sealing a man's wife to himself was there not? A:-Yes sir.

715 Q:-And that was the practice was it not? A:-Yes sir.

716 Q:-You were not sealed to somebody else's man were you? A:-No sir.

717 Q:-You were sealed to your own husband? A:-Yes sir.

718 Q:-You were taught that you were to be sealed to your husband? A:-Yes sir.

719 Q:-You were not taught that you could be sealed to as many men or more than your own husband? A:-No sir,I was not taught that,for I could not have gone and do off for any man I ever saw.

720 Q:-And the revelation on polygamy teaches that you could be sealed to other men? A:-Yes sir.

721 Q:-Then if that woman could,for instance,be sealed to Heber C.Kimball or Brigham Young or to any other person or to any one else? A:-Yes sir.

722 Q:-Well what do you call that? A:-I call that is polygamy.

723 Q:-Well now don't you see there was a distinct and separate revelation on the two different subjects? A:-I believe that that Joseph Smith had been sealed to two wives. I do believe that sir.

724 Q:-Well was it not in contemplation by the revelation that they were not two entirely different and distinct revelations? A:-I do not think they were,-I have tried to make people believe that that revelation was intended to include both,-I have tried to make people believe that that revelation was intended to include both polygamy,but I can't do it,and I don't see how you can possibly get in or out of it.

725 Q:-Do you now keep your wives under the revelation on polygamy that you have taken in Utah? A:-I do sir.

726 Q:-You never read it there? A:-No sir.

727 Q:-Did you ever see it when you were there? A:-No sir.

728 Q:-You never saw it there in print? A:-No sir.

729 Q:-Never for in any other form? A:-No sir.

730 Q:-You never saw it in print or writing there? A:-No sir,I never saw it in any shape until after I came here.

731 Q:-Your husband was a counselor to Brigham Young? A:-Yes sir,he was here.

732 Q:-Did you know that this revelation on polygamy was submitted to the church here in 1852,-I mean to the council here in Utah Territory,-and submitted to the church at a conference held in the tabernacle in this city in 1852? A:-Yes sir,it was publicly submitted.

733 Q:-With the exception of Brigham Young himself,that no one knew it,was in existence but himself? A:-Oh,no,I don't think that statement can be made.

734 Q:-That he kept it under lock and key and nobody knew of its existence but himself,-nobody knew that it was in existence but himself? A:-Well that might be so and it might not be so.

735 Q:-Did not President Brigham Young say that publicly on the stand in the Tabernacle, and is it not given publicity in the Journal of Discourses, as having been preached by Brigham Young? A:-I cannot say.

736 Q:-Did you say it is not? A:-I suppose it is. If you say it is in there I do not dispute your word, for I don't know that it is not in there.

737 Q:-Do you say you have never seen it and read it in the Journal of Discourses? A:-I say I have no recollection of it, if I have.

738 Q:-If it is in the Journal of Discourses it is correctly reported, is it not? A:-I cannot say. I presume it is correct. I have heard it discussed about Sister Emma burning that is claimed the original, but they have a copy of it.

739 Q:-Did not Brigham Young say on the occasion of the presentation of that table a revelation to the Church be in the Tabernacle in Salt Lake City in 1857? A:-Joseph Smith's wife had burned the original, but that he had had a copy of it and kept it in his box and key, and only showed it to a few in confidence that should? A:-Well sir, I don't recollect of his saying that, but I still believe they did have a copy of it for it was done around them in Nauvoo.

740 Q:-Was it before Joseph Smith's death? A:-I think it was, and afterwards too.

741 Q:-Did you read it close? A:-No sir, but I heard it read in substance.

742 Q:-Is the statement of fact made, is the truth as to the statement you made that any time was it given to the existence before or after the death of Joseph Smith? A:-Well I don't say positively as to that, but I rather think it was since.

743 Q:-Did you get a fact that they told you about it in Nauvoo was it in Salt Lake? A:-No sir, it was before I came here. It was while we were in Nauvoo.

744 Q:-Will you state, was Joseph Smith living? A:-I don't know exactly, I hope to before his death,- rather I think it was some time since he died.

745 Q:-Did you have that revelation, did you not, examined after his? A:-No sir.

746 Q:-Did you not commit yourself about it? A:-I did, but I thought I had it all right.

747 Q:-Do you still think do you think? A:-The proper time is when I should.

748 Q:-Will did you not say to Pres Jt? A:-No sir.

749 Q:-You not? A:-Neither it was the concept of time at all.

750 Q:-Your testimony was one of the other officers of the church? A:-Yes sir. And he said where it was I except.

751 Q:-If you have read anything about it? A:-Yes sir we have talked about it.

752 Q:-Did he say there was such a thing in existence? A:-No sir.

754 Q:-When? A:-Well he said it was in existence when we were in Nauvoo, but as I have already stated, I did not see it.

755 Q:-He said there was a revelation on that subject? A:-Yes sir.

756 Q:-Your husband told you that? A:-Yes sir.

757 Q:-When did he first tell you that? A:-At Nauvoo.

758 Q:-Well was it before or after Joseph Smith's death? A:-It was before his death.

759 Q:-He told you that then, before Joseph Smith died?

A:-Certainly he knew of it before Joseph's death.

760 Q:-Then he told you of the existence of this revelation before the death of Joseph Smith? A:-Yes sir, that is what I said. Well now I would like to qualify that answer for it is possible that he did not tell me of it before Joseph died, it is possible that he did not tell me of it afterwards,-it seems to me now that he did not, but I am not sure of that either. I can't say as to that positively.

761 Q:-Well after you came here to Salt Lake City, your brother was a counselor to Brigham Young? A:-Yes sir.

762 Q:-And you had a good place in the tabernacle here to sit, where you could hear everything that was said or hear everything that was sung on in the church? A:-Yes sir. I used to be pretty well seated in order to be able to get along in the position I was in, of course.

763 Q:-Well now do you remember when this revelation was presented for adoption by the church? A:-I think I was there.

764 Q:-You heard what was said? A:-I think I was there.

765 Q:-Well you heard what was said? A:-I presume I did.

766 Q:-Well you saw what took place or not, you heard what was said? A:-I presume I did. I was there I think and I presume I heard what was said.

767 Q:-Was it the time of some or five men presented certain tenets that this church at first formally presented to the church for adoption? A:-I believe so.

768 Q:-Did you cast your upon hands presented in the forenoon of that day, and referred to the fact that in the afternoon a new lation would be presented to the church? A:-Yes sir, I think so. I believe I remember that, and I believe I was there when it was presented.

769 Q:-And there was a vote taken on it? A:-Yes sir.

770 Q:-And you raised your hand in it when it was voted on? A:-Yes sir, I raise I did. I have I was there,-or I have been from down about what, and I know one thing, that I am just positive that that revelation was true, and I am just as sure of it as of any thing that could possibly happen,-there never was a particle of doubt in my mind at the time as to the truth of the revelation.

771 Q:-Well we don't care about that? A:-Well I care about it, for it is a matter of conscience with me.

772 Q:-Well that is immaterial, for it is not a question of the truth or falsity of the revelation that men cannot take two or more wives not,-it is because of the vote that "Uncle Sam" throws the citizens of his land and upon it? A:-Yes sir, and that is a difference so far as that country the law that they have acted,-

773 That is a difference,-the way the church out there has acted or the way the officers of the civil law of the country have acted? A:-Well it don't matter, it is all right I suppose.

774 Q:-Was the practice of a man having as many wives as he wanted the cause because the church had sanctioned the practice? A:-Yes sir.

775 Q:-Or is it because the church here has voted to abolish it? A:-Yes sir.

776 Q:-The church has voted to abolish it? A:-Yes sir.

777 Q:-Could anybody go into the practice of plurality before the church decided to abolish it? A:-Yes sir, I suppose so.

791 Q:-Well they are dressed differently you say?
A:-No sir,you are mistaken. I know what you are talkin about,but you are mistaken for they are dressed exactly the same,because they keep the same doctrine.
792 Q:-Well how could they dress differently if they were the same? A:-What is that,-that is somethin I don't understand?
793 Q:-How were they dressed differently if they were the same? A:-I know what you are talkin about. You are talkin now about when I get my anointing.
794 Q:-Well are they dressed differently now from what they were when you had your anointing? A:-Yes sir.
795 Q:-Well why did you not put that before? A:-Well I could have done so but I did not think it was material.
796 Q:-When they take up anointings differently now? A:-No sir,they do not.
797 Q:-Well do they take them now? A:-They take them exactly the same now as they did then,-there is no change at all,-they are precisely the same and they do exactly the same.
798 Q:-Well now I want to get this perfectly straight,-do you take the anointing now for the [illegible] days of Joseph Smith,and [illegible] in taking the endowments? A:-Yes sir,they are exactly the same. [illegible] given to Joseph and he gave it to the church,and then he said it should do [illegible] well,-said he "they will do for your [illegible] clothes."
799 Q:-Do you dress just the same when they take the endowments? A:-Yes sir,and after they get through with their endowments they take their clothes and,-they do not wear the same clothes all the time.
800 Q:-Don't they have a veil between the ladies and the gentlemen? A:-No sir.
801 Q:-A veil in something? A:-No sir.
802 Q:-They do not? A:-No sir.
803 Q:-Well what do they have? A:-Well not in the room,-in the room taking on endowments here,we could see from that room into the room,-
804 Q:-Don't the people when they take their endowments? A:-Then do when they reach any amount of degree. That is all the separation there is.
805 Q:-Don't they come together in separate rooms,and don't they [illegible] at first? A:-Yes sir. When they are [illegible] amount they are [illegible].
806 Q:-Is it so they in is a [illegible] room? A:-Yes sir.
807 Q:-Well did they do the same thing in Nauvoo? A:-Yes sir.
808 Q:-Do it just exactly the same way in Nauvoo? A:-[illegible]
A:-Yes sir.
809 Q:-Without any variation? A:-Yes sir.
810 Q:-Was there two rooms there in Nauvoo at the time you got your endowments? A:-No sir,there was not,and then we had rooms in Lee to the Sister's Lodge-room,because there was not but two rooms that could be used,and the men had one of them,and so as the other was Sister Lee's bedroom we had to go to that.
811 Q:-Was there not two rooms in the lodge room? A:-Yes sir,there was the lodge room and a room just off it.
812 Q:-Well now in taking the endowments,what position were you in Nauvoo,-when they take the obligation,what position are they in with reference to their being sitting or standing? A:-Standing.
813 Q:-They take the obligation standing? A:-I guess so.

834 Q:-When was that? A:-That was in 1837.
835 Q:-Who baptized you? A:-Elder Gladden Bishop.
836 Q:-Who baptized you in Salt Lake,-do you recollect?
A:-Yes sir, I remember who it was.
837 Q:-Well who was it? A:-My husband.
838 Q:-George A. Smith baptized you? A:-Yes sir.
839 Q:-He baptized you here in Salt Lake? A:-Yes sir, here in this territory.
840 Q:-Have you been baptized more than once? A:-Out here in this territory do you mean?
841 Q:-Yes ma'am? A:-Yes sir, I was baptized in, in after [illegible] out, I [illegible] we were all [illegible] in, but I think I do not remember who it was baptized me the third time.
842 Q:-Have you ever been baptized into the order of Enoch? A:-[illegible] that I [illegible] of.
843 Q:-[illegible] you have [illegible] Salt Lake City for [illegible] of your [illegible]? A:-Yes sir, I [illegible] my husband [illegible].
844 Q:-Do you remember when the covenant that was made [illegible] you were baptized in 1837, and [illegible] the [illegible] Kelley? A:-I do sir.
845 Q:-You are sure? A:-I do sir.
846 Q:-[illegible] you [illegible] out [illegible] you baptized the second time? A:-[illegible] long [illegible] and [illegible] through, [illegible] not [illegible] my name be particular, still [illegible] could [illegible] for [illegible] sin or [illegible] fallen [illegible] baptized [illegible] it [illegible].
847 Q:-Are you [illegible] of [illegible] baptism [illegible] you [illegible]? A:-Yes sir.
848 Q:-[illegible] that in the [illegible] they [illegible] covenant with the [illegible]? A:-Yes sir.
849 Q:-[illegible] the [illegible] or [illegible] your [illegible] if they have not lived [illegible]? A:-I [illegible] they have not lived [illegible] religion [illegible] [illegible] [illegible] [illegible] [illegible].
850 Q:-Do you remember [illegible] your first baptism you [illegible] Christ? A:-Yes sir.
851 Q:-You do remember that you [illegible] Christ [illegible] your first baptism you [illegible]? A:-Yes sir.
852 Q:-And you [illegible] out [illegible] you [illegible] out of Christ and [illegible] your covenants? A:-No sir.
853 Q:-[illegible] you [illegible] the second time [illegible] of you [illegible], broken your covenants, and [illegible] out of Christ? A:-No sir, I did not consider that we had broken our covenants, but we thought it [illegible] for everybody [illegible] baptized anew, and start afresh again as it [illegible].
854 Q:-[illegible] you were baptized into another covenant? A:-No sir, it was the same covenant.
855 Q:-Did not the revelation on polygamy teach it as another covenant, and is not that the reason you were baptized the second time? A:-No sir.

856 Q:-Will you swear that it does not teach it as a new covenant? A:-What kind of a covenant?

857 Q:-Why a covenant like all other covenants,-a new and everlasting covenant? A:-A new and everlasting covenant?

858 Q:-Yes,and different from the one you were baptized i in before? A:-No sir,I don't know that it was.

859 Q:-Well it was given after you had been baptized the first time? A:-Certainly.

860 Q:-Then it must have been a different one,was it not? A:-No sir,for I [illegible], taking the first covenant com- [illegible] it all.

861 Q:-[illegible] covenant comprise it all? A:-[illegible] sir.

862 Q:-[illegible] relation to covenant [illegible] you were [illegible] 1827? A:-No sir.

863 Q:-[illegible] covenants [illegible] baptized [illegible] you? A:-I think it comprehends it all.

864 Q:-[illegible] baptism comprehends it all? A:-[illegible].

865 Q:-[illegible] you baptize here the second time, [illegible] the fourth time out here? A:-[illegible] I might [illegible] right [illegible].

866 Q:-You [illegible] John Taylor [illegible] the President of the church? A:-No sir. [illegible] long [illegible].

867 Q:-[illegible] you baptized a pilot, may [illegible]? A:-[illegible].

868 Q:-[illegible] baptized again after that? A:-[illegible] sir.

869 Q:-Was the idea of the reorganization? A:-Yes sir.

870 Q:-[illegible] John Taylor? A:-Yes sir. No sir,I [illegible] baptism [illegible],-it was John Taylor [illegible] President [illegible].

871 Q:-All [illegible] consistency [illegible]? A:-[illegible] right, [illegible].

872 Q:-[illegible] of the revelation that [illegible] proclamation for all to leave,-or [illegible] business? A:-No sir,that [illegible] proclamation.

873 Q:-[illegible] from the pulpit?

874 Q:-[illegible] time [illegible] could [illegible]? A:-No sir, [illegible] you are after. I [illegible] it [illegible] some of the [illegible] they [illegible] it [illegible] it,-but [illegible].

875 Q:-[illegible] you if all the sisters that came from [illegible] Nauvoo,or far as you know,have been instructed [illegible] they must be re-baptized? A:-Yes sir,[illegible] that [illegible].

876 Q:-[illegible] Young and all the Apostles [illegible]-baptized? A:-Yes sir.

877 Q:-And [illegible] our husband? A:-Yes sir.

878 Q:-They [illegible] all re-baptized? A:-Yes sir.

879 Q:-And all the officers in the church were re-baptized? A:-Yes sir,I think so.

880 Q:-Into this new and everlasting covenant? A:-No sir. It was the same ceremony exactly that was before. The same ceremony that we were baptized into first.

881 Q:-Was it into the same covenant? A:-I don't know that we could be baptized back into something that we had never got out of,for we had not broken our covenants but we felt that there would be no harm done if we were baptized again,and so we were,but it was,-

882 Q:-Was what? A:-Was to a large extent optional with us.

883 Q:-What was optional? A:-Whether we should be baptized or not,--that there was nothing obligatory about it, but it was recommended, but it was not compulsory.

884 Q:-Do you say that this re-baptism was to be done [illegible] A:-[illegible]

885 Q:-[illegible]

886 Q:-[illegible]

887 Q:-[illegible]

888 Q:-[illegible]

889 Q:-[illegible]

890 Q:-[illegible]

891 Q:-[illegible]

892 Q:-Death would separate you?
A:-Yes sir, and that is what it means

and nothing more in my opinion.

895 Q:-You believe and your church here teaches,that if you were not sealed to your husband for time and eternity,that you would be lost? A:-Please repeat that question,for I don't believe that I quite comprehend it.

896 Q:-I asked you if you did not believe,and your church does not teach,that if you were not sealed to your husband for time and eternity,that you would be lost? A:-[illegible] sir,we would not be [illegible] our church teaches that a [illegible] life,and a [illegible] husband,-in [illegible] can [illegible]

897 Q:-[illegible] A:- [illegible] it [illegible]

898 Q:-[illegible] follows,- [illegible] covenant [illegible] story; [illegible] and [illegible] the [illegible] sir.

899 Q:-[illegible] A:-[illegible]

900 Q:-[illegible] law? A:-[illegible] it.

901 Q:-[illegible] A:-[illegible] sir.

902 Q:-[illegible] A:-[illegible] law?

903 Q:-[illegible] A:-[illegible] sir,and that means [illegible]

904 Q:-[illegible] A:-[illegible]

905 Q:-[illegible] it.

906 Q:-[illegible] A:-[illegible] sir.

907 Q:-"And verily I say unto you that the conditions of this law are these,-all covenants,contracts,bonds, obligations,oaths,vows,performances,connections, associations or expectations,that are not made,and entered into and sealed by the Holy Spirit of promise,of him who is anointed both as well for time and for all eternity,and that too most holy by revelation and commandment,through the medium of mine anointed one I have appointed on the earth to hold this power (and I have appointed unto my servant Joseph to hold this power in the last days,and there is never but one on the earth at a time on whom this

power, and the keys of this priesthood are conferred) are of no efficacy, virtue or force, in and after the resurrection from the dead; for all contracts that are not made unto this end have an end when men are dead." What does that mean? A:-Well now that is strange,-can't you see through that easy enough.

908 Q:-Well now I don't know that I do, but I think I do. Under this revelation would not your covenants that you received in your [illegible] in 1837 be void unless you were re-baptized,-would not your original covenants have been void unless you had been re-ap-[illegible]? A:-No sir, I don't think so,-it says [illegible] is [illegible] power,- [illegible] keys of this priesthood, and when men [illegible] at, [illegible] the [illegible] sir.

909 Q:-[illegible] A:-Yes sir.

910 Q:-[illegible] one [illegible] A:-Yes sir,-[illegible] revelation on [illegible] accumulating [illegible] power [illegible] received from God.

911 Q:-And [illegible] A:-Yes sir.

912 Q:-[illegible] A:-Yes sir, [illegible] at [illegible]

913 Q:-[illegible] A:-[illegible]

914 Q:-[illegible] hold [illegible] A:-Yes sir.

915 Q:-[illegible] A:-Yes sir.

916 Q:-[illegible] A:-Well I don't [illegible]

917 Q:-[illegible] A:-Yes sir.

918 Q:-[illegible] A:-Yes sir.

919 Q:-[illegible] t [illegible] A:-Yes sir.

920 Q:-[illegible] A:-[illegible] wife [illegible] it.

921 Q:-[illegible] one [illegible]

922 Q:-[illegible] A:-[illegible]

923 Q:-Yes [illegible] A:-Yes sir, but [illegible] men have power [illegible] unless they [illegible] special authority to do so.

924 Q:-[illegible] Young [illegible] did you under this revelation,-[illegible] virtue of this revelation? A:-Yes sir, and [illegible] authority to do [illegible] that, [illegible] I [illegible] second wife.

925 Q:-[illegible] say anything about [illegible] wife or a first wife or anything of that kind? A:-Well [illegible] you [illegible] anything about this revelation [illegible] This [illegible] power to [illegible] -it [illegible] regulated [illegible] order, and [illegible] old law [illegible] his one or first wife [illegible] and under that Brigham had a right to seal me to my

husband,but under the new law as given in that revelation he could not seal a man's second or third wife to him without authority from Joseph to do so.
926 Q:-Well your sealing to your husband was not by virtue of this revelation,but by virtue of the other revelation whereby it was directed to seal a woman to her own husband? A:-Well of of course my husband had the liberty to take me,but then,-don't you see that you have gotten into polygamy now,-you are getting things mixed up,and we don't understand each other apparently.
927 Q:-This does not say a word about polygamy,-this revelation does not say a word about polygamy so far as I have read? A:-Well if you will read it through you will see.
928 Q:-Now could Brigham Young during the life-time of Joseph Smith,have performed the ordinance of sealing you to your husband under this revelation,when the revelation itself says there is not but one person on earth authorized to do so,and that is Joseph? A:-Well of course Joseph gave his consent,-of course he did.
929 Q:-Could Joseph Smith seal by proxy? A:-Yes sir.
930 Q:-Oh,he could? A:-Of course he could.
931 Q:-And could Brigham Young seal by proxy? A:-Yes sir, all of them could.
932 Q:-Could Wilford Woodruff seal by proxy? A:-Yes sir, but he don't do it.
933 Q:-Do you mean to say that a prophet was greater than the law,and could do as he pleased? A:-Well I mean to say just what that does there in the book.
934 Well this says that there is no man on earth could seal but Joseph Smith? A:-I know that,but if you will take the time to hunt it all out,you will find out just what it means.
935 Q:-Were you not,as a matter of fact,sealed to your husband after Joseph Smith's death,by Brigham Young? A:-No sir.
936 Q:-You swear positively you was not? A:-I was not.
937 Q:-And did you not go through the endowment house after Joseph Smith's death? A:-Through the temple I did but I was not sealed there.
938 Q:-Did you not pass through the endowment in the temple? A:-No sir. Yes sir,I meant to say.
939 Q:-And take your obligations there in the temple? A:-Yes sir,I did.
940 Q:-Then you were sealed by Brigham Young after Joseph Smith's death? A:-There was no Brigham Young about it at all.
941 Q:-That ceremony was not conducted by Brigham Young? A:-No sir.
942 Q:-What was it by? A:-Orson Hyde.
943 Q:-Well that was after Joseph Smith's death? A:-Yes sir,but I was sealed first by Brigham Young before Joseph's death. I was first sealed when Joseph was living.
944 Q:-Were you sealed under this revelation by Orson Hyde? A:-Yes sir,-under the covenants in this revelation.
945 Q:-And that was after Joseph Smith's death? A:-Yes sir.
946 Q:-Now don't you know there is no other revelation on sealing? A:-Well I don't know about that.
947 Q:-That was not a plural wife revelation,and were you not sealed under that by Orson Hyde? A:-Well is this not the same thing?
948 Q:-I think not? I think the first one you were sealed under was a revelation that premitted a man's wife to be sealed unto himself only? A:-Well there wasn't any "only" about it at all.
949 Q:-Well it did not permit any other sealing than the

sealing of a man's wife to her husband,-that was all the kind of sealing it permitted,is it not? A:-Well it was the same thing.

950 Q:-Well then you were not sealed properly? A:-Yes sir I was. I was sealed as proper as anybody could be.

951 Q:-Were you married properly also? A:-Yes sir,I was properly married by Don Carlos Smith,Joseph's brother,-he was Joseph Smith's youngest brother.

952 Q:-Well when was it you were married? A:-It was in 1841.

953 Q:-What ceremony was used? A:-The right one.

954 Q:-Well what one was it? A:-The one of,-the one in the book of Doctrine and Covenants.

955 Q:-It was the one in the Doctrine and Covenants? A:-Yes sir.

956 Q:-How you say you were married in 1841? A:-Yes sir.

957 Q:-Where were you married? A:-In Nauvoo.

958 Q:-Who was present when you was married? A:-My mother and brother and all the family.

959 Q:-Was there not a great many there? A:-No sir,there was not a great many there. We were just there with our own family and a few others,and when we were married we went off to meeting together,and my husband preached.

960 Q:-And you were dressed as a bride at the church that day? A:-Yes sir,I was,and Joseph was there and congratulated me on getting such a good husband.

961 Q:-Did you ever see any of these secret wives,dressed as brides in church or any where else,there in Nauvoo? A:-No sir,it was only a man and his wife that would be dressed that way so far as I remember.

962 Q:-Well I asked you if you ever saw any of these secret wives dressed as brides there at meeting? A:-Do you mean there in Nauvoo?

963 Q:-Yes sir? A:-No sir,I said I did not.

964 Q:-I mean in Joseph's time? A:-No sir.

965 Q:-The ceremony that was repeated to you when you was married to your husband,George A. Smith,was the ceremony that was published in the book of Doctrine and Covenants at that time,was it not? A:-Yes sir.

966 Q:-Now I will ask you if when you were taking your - endowments in the lodge room,whether or not there was anybody representing Jehovah,and anybody representing Adam,and if there was anybody representing Satan during any part of the ceremony? A:-Well now sir,that is my business.

967 Q:-Well answer the question please? A:-Well that is my business.

968 Q:-Do you decline to answer the question? A:-There is no use in your ~~answering~~ asking it or in my answering it, for I am not going to tell you everything that happened there.

969 Q:-Well do you decline to answer the question? A:-I do.

970 Q:-Don't you know that there ~~were parties~~ that represented all of these personages ~~XXXXX~~ ? A:-I know there was lots of people there that did not represent them,and lots of people that were not there that did not represent them.

972 Well not don't you know that nobody represented either of these personages ,when you were taking these endowments at Nauvoo,prior to Joseph Smith's death? Don't you know that right well? A:-I have seen it in the paper,--

973 Q:-Well don't you know that when you were taking your endowments at Nauvoo, that there

was nobody there that represented or purported to represent any of these personages? I refer to the time when the endowments were given over Joseph's store there in Nauvoo,in the lodge room,and before the time of Joseph Smith's death? A:-I don't see what that has to do with this case,-

974 Q:-And at the time that you were anointed in the bedr room,-in Emma Smith's bed-room? A:-No sir.

975 Q:-There was not anybody that represented Adam and Eve,nor was there anybody that represented Jehovah in any part of that ceremony? A:-That is a question that I don't want to answer.

976 Q:,-Well do you say there was? A:-Was what?

977 Q:-Do you say there was any one present at the time of your anointing in Emma's bed-room or in the lodge room over Joseph's store there in Nauvoo,at the time of the giving of the endowments during the life time of Joseph Smith,who,-any person at either of these places at the time specified,who represented Adam and Eve or Satan and Jehovah? A:-I have not said that there was.

978 Q:-You have not said there was? A:-No sir.

979 Q:-Have you said there was not? A:-I decline to answer the question.

980 Q:-Don't you know there was not any one? A:-I don't remember all about it.

981 Q:-Well don't you know there was not? A:-You have asked me plenty.

982 Q:-Do you refuse to answer the question? A:-Yes sir I do.

983 Q:-Well I insist upon an answer? A:-Well you will not get it.

984 Q:-Well I insist upon the answer,and I want to tell you now that if you answer it I will not ask you any more on this line? A:-Are you sure of that?

985 Q:-Yes I am sure of it? A:-Well what is it?

986 Q:-I asked you if at the time you received your anointings in Emm's bedroom and the time of the giving of the endowments in the lodge room over Joseph Smoth's store in Nauvoo,during the life time of Joseph Smith,if there was any one present during any of these ceremonies,who represented Adam and Eve and Satan and Jehovah? Now don't you know at the time you were taking your endowments and anointings in Emma's bed room,during the life of Joseph Smith,and afterward when you went up into the lodge room,-don't you know that there was not anybody that represented Jehovah during any part of that ceremony, or that represented Adam and Eve,or that represented Satan during any part of that ceromony? A:-Nor any one of them,-is that your question?

987 Q:-Yes ma'am? A:-I don't want to answer that question.

988 Q:-Now I do not ask you to tell what they did represent,-I am only asking you if you do not know that they did not represent these personages? Any or all of them? (Witness does not answer.)

By Mr.P.P.Kelley,-"I desire to have it noted that Mr. Hall is shaking his head at the witness in a manner to indicate that he does not desire her to answer the question."

A:-I agreed not to reveal what transpired there.

989 Q:-You understand that you are not called on to violate any promise or oath you made? A:-I can't say this ain't so or that ain't so,when I promised not to tell anything about it at all,and if I answer those questions I would be violating my agreement. (The foregoing question No. 989 was asked the witness in the way of instruction by Mr. Cabell.)

990 Q:-Well you did not take an obligation not to tell what did not occur,did you? A:-No sir.
991 Q:-Well now that is what I am asking for,-something that did not occur? A:-No sir.
992 Q:-Well I say that is something that I asked you for, ,-what I ask you for was something that did not occur? A:-Well I can't tell you,and you can interpret that answer in any way you please. I am not going to answer any such a question as that,-tell you something that did not occur and say it did or did not occur. It seems to me that the question is too foolish to call for an answer.
993 Q:-Well,are not these four characters represented here during the ceremony of taking the endowments? A:-I think I have told you several times I would not answer any such a question,so what makes you repeat. I will not answer any of these questions at all.
994 Q:-Are they not,and were they not represented during the ceremony of the taking of the endowments here? A A:-I will not answer that question,-if I did you might ask me a dozen more.
995 Q:-Well do you decline to answer it? A:-I don't wish to answer it.
996 Q:-Do you decline to answer it for the reason that it might tend to criminate you? A:-Yes sir.
997 Q:-You do? A:-Yes sir,-and because I do not think I am at liberty to answer it.
998 Q:-Did you notice Mr.Hall a moment ago,-I mean the gentleman there who conducted your direct examination,shaking his head at you when I was asking you questions? A:-It was only when I asked him a question.
999 Q:-Well did he not shake his head signifying to you not to answer a question that I asked you? A:-well I asked him or was about to ask him if it was right that I should answer it,and I don't think he meant anything wrong by what he did.
1000 Q:-He shook his head at you? A:-Yes sir.
1001 Q:-And you did not refuse to answer until he told you not to? A:-He did not tell me not to answer it.
1002 Q:-Well you did not refuse to answer the question until he indicated to you that you were not to answer it? A:-Yes sir,but I told you before that that I did not want to answer it.
1003 Q:-Well I want to ask you one more question?
By Mr.Hall,-"I object to each and every question,that has been asked the witness on re-cross examination,a and to the answers of the witness on the ground that it is incompetent,irrelevant and immaterial,and not re-cross examination."
By Mr.Kelley-
1004 Q:-Now you have been a member of the church,and the wife of a prominent officer of the church ever since the death of Joseph Smith,and during that time have held many important offices in the church yourself have you not? A:-Yes sir.
1005 Q:-During all that period you have occupied that position,-that is you have been a member of this church,and the wife of one of its prominent officers and have held important offices in it yourself? A:-Yes sir.
1006 Q:-Now I will ask you to state to the reporter,if you can,why it was,or why it is,that the church of which Wilford Woodruff is not the president,and of which Brigham Young was formerly the president,published the revelation on polygamy,the same being sec-

tion one hundred and thirty two of exhibit "A" and incorporated that into the book of Doctrine and Covenants,and took out of the book of doctrine and covenants published before that time section one hundred and one,the same being the section on marriag Can you tell why that was done? A:-Why they took that out?

1007 Q:-Yes madam,-can you tell why they went to work and took that out? A:-What you want to know is why they took that out,and put the other in its place?

1008 Q:-Yes,why they took the revelation,or rather the section on marriage out and put this polygamous revelation in in its place? A:-You will have to ask some one else that question.

1009 Q:-Do you know why it was done? A:-No sir,I don't know why it was done. I don't know why they did it.

1010 Q:-Now I will ask you one more question,-since the "manifesto" was published,-I mean the manifesto renouncing polygamy was published by President Woodruff,has the church here re-adopted section one hundred and one of exhibit "E" as being the section on marriage?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and on the further ground that it is not ~~XXXXXXX~~ proper re-cross examination.

1011 Q:-What do you say to that? A:-I don't know anything about it.

1012 Q:-Has the church adopted this as the section on marriage in the book of Doctrine and Covenants? A:-I do not know.

1013 Q:-Have they ever done so to your knowledge? A:-No sir.

1014 Q:-Then the law on marriage is just the same now in this church here in Utah,as it was before the publication or issue of the manifesto of President Woodruf is concerned,-it is just the same as it was before the issue of that manifesto,so far as any public action of the church is concerned? A:-Ask that again?

1015 Q:-I asked you if to your knowledge that section one hundred and one as it is in exhibit "E" had been put in the book of Doctrine and Covenants published by the church here,since the issue of the manifesto by President Woodruff,so far as any action taken by the church as a body is concerned?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper re-cross examination.

1016 Q:-So that the law of the church here in Utah is just the same as it was before that manifesto is concerned,-so far as any formal action of the church is concerned? A:-Well all that I know about it now is that there is not any such a thing as second wives at all now.

1017 Q:-Have they adopted any new revelation on that question of marriage? Has the church adopted any new revelations on the question of marriage that supersede,or displace that revelation,-that polygamous revelation? A:-The ceremony of marriage is the same with the first wife,or with the second one too for that matter. There is no reason why it should be changed at all.

1018 Q:-Have they adopted,-that is has the church here adopted any new rule of marriage since the manifesto was issued? A:-Notthat I know of.

1019 Then there is none except as it is contained in this revelation on polygamy? A:-Has no what,-

1020 Q:-Has no law of the church on the question of marriage been adopted by the church since the issue of that manifesto,-has there any law been adopted by the church in the place of this revelation on polygamy? A:-Well I don't know what you mean,for the manifesto is a law.

1021 Q:-The manifesto itself you say is a law? A:-Yes sir.

1022 Q:-The manifesto is that you don't practice or take more than one wife,-is that it? A:-Yes sir. That is what it says.

1023 Q:-But if there are any marriages performed,were,or are they not married according to the provisions of the law contained in this section one hundred and thirty two,-married to one wife? A:-So far as that is concerned the marriage ceremony is and always has been the same.

1024 Q:-The ceremony you say is and always has been the same? A:-Yes sir.

1025 Q:-They were sealed? A:-Yes sir,for time and eternity.

1026 Q:-Then section one hundred and thirty two is operative in the church yet,so far as marriage is concerned,-that is sealing one man to one wife? A:-Sealing one wife to one man,-it is the woman who is sealed to the man,and not the man to the woman. So far as I am aware it is the same,-just the same.

1027 Q:-Then section one hundred and thirty two is the law of the church on marriage,-that is in reference to sealing one man to one wife is concerned? A:-Yes sir. I suppose so,but I have not heard it talked of much,if any.

1028 Q:-Well now is it not the law Mrs.Smith,except perhaps for the fact that the manifesto perhaps prohibits a man from taking more than one wife? A:-Yes it does.

1029 Q:--Does what? A:-The manifesto prohibits a man from having more than one wife.

1030 Q:-But it is the law of the church just the same as it was before the manifesto was issued,excepting that one man cannot take ~~more than~~ one wife,and can not have more than one wife? A:-Yes sir.

1031 Q:-That is the law of the church at this time with this exception? A:-Yes sir,so far as I know it is the same.

1032 Q:-Well now suppose a man should take two wives now, what law of the church would be violated?

Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not re-cross examination.

A:-He would violate his covenants.

1033 Q:-What covenants? A:-When he raised his hand and covenanted to obey the ministry. Everybody did that at the time that manifesto was issued,and that is a covenant that he would violate if he would take two wives now.

1034 Q:-That is the law of the church though? A:-Yes sir. There is no man in the church can take another wife without permission,and he cannot get permission,-he can't get the permission to do so.

1035 Q:-Well now that is not the answer to the question I asked you. Suppose a man did take two wives,where is the law of the church that would discipline him for it? A:-Well he would be cut off from the church for it.

1036 Q:-By what law could that be done? A:-By reason of the fact that he violated his covenant in that manifesto.

1037 Q:-Is that the law of the church? A:-Yes sir.

1038 Q:-What made it so? A:-Because they accepted it and swore to it.

1039 Q:-What was it they swore to? A:-The manifesto,-they swore to it and promised to obey it,and it is the law on that question. I thought you were not going to ask me any more questions.

1040 Q:-Well I have thought of one or two more you see, but I did not know it at that time,-and my promise not to ask you any more questions was a conditional one based upon your assenting to answer a question I asked you,which you refused to answer. Is it because of an obligation that they took in the endowment to obey the counsel of the church? A:-Is that what?

1041 Q:-Is that the rule by which they would be disciplined? A:-No sir.

1042 Q:-That would not be the rule by which they would be disciplined? A:-No sir.

1043 Q:-Well what would be the rule? A:-By the action they took at the conference,and raised their hands and swore that they would obey the manifesto.

1044 Q:-They swore that they would obey the manifesto? A:-Yes sir,at the conference they did that.

1045 Q:-And you say that manifesto is the law of the church? A:-Yes sir.

1046 Q:-Is it in the book of Doctrine and Covenants? A:-No sir,I think not.

1047 Q:-Does not the book of Doctrine and Covenants contain the laws of the church? A:-Yes sir,but that is not in there I think.

1048 Q:-Does not the book of Doctrine and Covenants contain all the laws of the church,-that is the law of the church with reference to the rules of disciplining? A:-Well no,I don't suppose it does. At any rate this manifesto has come out lately,and it is a law of the church that has not had time to be put in the Doctrine and Covenants. There is not at the present time any thing in the book of Doctrine and Covenants about it.

1049 Q:-How the doctrine of the church has always been has it not Mrs.Smith,to be the bible,the book of Mormon and the book of Doctrine and Covenants.,-these three books have been the doctrinal books of the church,have they not? A:-Yes sir.

1050 Q:-And the book of Doctrine and Covenants contains the revelations that were given to the church by the Lord,through his prophet,Joseph Smith? A:-Yes sir.

1051 Q:-That was the law of the church? A:-Yes sir.

1052 Q:-Was the manifesto a revelation? A:-Yes sir.

1053 Q:-Whom did it come through ? A:-It came through the Lord.

1054 Q:-The Lord speaking through whom? A:-Through Wilford Woodruff.

1055 Q:-It was given to Wilford Woodruff? A:-Yes sir.

1056 Q:-How do you know that to be a fact? A:-He said so.

1057 Q:-Who said so? A:-He said the Lord revealed it to him.

1058 Q:-Wilford Woodruff said that? A:-Yes sir,he said that.

1059 Q:-Said what? A:-Said that they had to stop that,and I have heard him say it privately too.

1060 Q:-Told them they had to stop polygamy? A:-Yes sir, that they had to stop having more than one wife.

1061 Q:-Is it the same thing as the Lord ~~told Hagar when he told Abraham to put away Hagar? A:-Yes sir,it is~~ told Abraham when he told him to put away Hagar? A:-Yes sir it is the same thing.

1062 Q:-Then the Lord communicated through President Woodruff to the church,that they had to stop the practice of polygamy,and put their surplus wives away,-how was it to be stopped? If the Lord in the first place authorized the practice of polygamy in

the church,and then afterwards interdicted it,would you not think that the Lord has rather gone back on himself? A:-It is not for me to criticize the Lord's actions.

I063 Q:-Well if he authorized polygamy in the first place ,and if it is an institution of the Lord it must be one that he authorizes or approves,else he would not permit it,and then he afterwards goes back on it,does it not look like he would be going back on himself? A:-I say it is not for me,-

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not proper cross examination,and is calling for an expression of opinion from the witness.

I064 Q:-Answer the question? A:-No sir,I don't think so. I don't think so at all. I think the people have gone back on it themselves.

I065 Q:-Well is it not more consistent to believe that the polygamous revelation was a fraud than to believe that the Lord would go back on himself in that way? A:-No sir,for it is not a fraud.

I066 Q:-Now you said that the manifesto was a revelation from the Lord? A:-Yes sir.

I067 Q:-Given to the church through Wilford Woodruff? A:-Yes sir.

I068 Q:-And you say also that the polygamous revelation was a revelation from God to the church through Joseph Smith? A:-Yes sir.

I069 Q:-Now if that polygamous revelation was not a fraud why does the Lord step in and say that the people must stop that which they were commanded to do by the polygamous revelation,-why does he step in and say that they must not do that which they are directed and commanded to do in the polygamous revelation?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper re-cross examination.

A:-Well it is not the first time he has done that a and it is all right.

I070 Q:-When did he ever step in at any other time and tell you that you must stop practicing polygamy? A:-He told the Nephites the same thing.

I071 Q:-Was it in reference to the practice of polygamy? A:-Yes sir.

I072 Q:-It is? A:-Yes sir.

I073 Q:-Did he ever tell them to commence it?

Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not proper re-cross examination.

I074 Q:-Did the Lord ever tell the Nephites to commence the practice of polygamy? A:-I don't know. I suppose he did. He told them to stop it.

I075 Q:-Well do you know he did? A:-Well it don't say in the book of Mormon that he told them to commence it but it says that he told them not practice it until, ,-he puts it "without I the Lord command thee" or something like that.

I076 Q:-Are you certain that is in the book of Mormon that way? A:-Yes sir.

I077 Q:-That they must not practice polygamy without the Lord commanded them to do so? A:-Yes sir.

I078 Q:-And you are certain that the Lord told the Nephites that they should not practice polygamy until he revealed it unto them,or told them to parctice it?

Counsel for the defendants objects to the question asked

on the ground that "the question calls for an answer from the witness that it would be impossible for her to give,as there has been no evidence given in this case to show that she is a prophet,or capable of answering the question."

1079 Q:-I think the evidence shows that she is capable of answering not only this question but a great many others that she has refused or declined to answer. If she is not competent,I would like to know who is? What do you say to the question I asked you?
A:-Well if you will read that you will see that it is true.

1080 Q:-Well now I will read from exhibit "B" on page 132 paragraphs 24,-23,24,and 25,and I will ask you if that is the part of the book of Mormon you referred to,-"But the word of God burdens me because of your grosser crimes. For behold thus saith the Lord,-this people begin to wax in iniquity; they understand not the scriptures for they begin to excuse themselves in committing whoredoms,because of the things which are written concerning David and Solomon his son.
Behold David and Solomon truly had many wives and concubines,which thing was abominable before me,saith the Lord.
Wherefore,thus saith the Lord,I have led this people forth out of the land of Jerusalem,by the power of mine arm,that I might raise up unto me a righteous branch from the fruit of the loins of Joseph.
Wherefore I ,the Lord God,will not suffer that this people shall do like unto them of old.
Wherefore,brethren,hear me,and hearken to the word of the Lord,for there shall not any man among you have, save it be one wife; and concubines he shall have none.
For I,the Lord God delighteth in the chastity of women, and whoredoms are an abomination before me,thus saith the Lord of Hosts.
Wherefore this people shall keep my commandments,saith the Lord of Hosts,or cursed be the land for their sakes.
For if I will,saith the Lord of Hosts,raise up seed unto me,I will command my people; otherwise they shall hearken unto these things.
For behold I the Lord have seen the sorrow and heard the mourning of the daughters of my people in the land of Jerusalem; yea,and in all the lands of my people,because of the wickedness and abominations of their husbands."
Now I have read to you from the 23rd paragraph to the 31st paragraph inclusive? A:-Yes sir,that is it there,-there it is entirely.

1081 Q:-Is that the part of the book of Mormon you referred to when you said the Lord commanded them not to take more wives than one?
A:-To not take any more than one?

1082 Q:-Yes madam? A:-Yes sir,and I said it was stopped then.

1083 Q:-It was stopped then? A:-Yes sir.

1084 Q:-Well does it say that he ever started it?
A:-Yes sir,it says it plain enough.

1085 Q:-Don't the very passages I have read condemn the practice of polygamy wherever it had been started?
A:-No sir.

1086 Q:-It does not? A:-No sir,for it talked like XXXXXX as if it was all right in the beginning.

1087 Q:-He said "behold David and Solomon truly had many wives and concubines,which thing was abominable before me",and then to show who was speaking it goes on to show that the Lord said that,-the words are " "thus saith the Lord"? A:-Yes sir,but you read there that they began to be wicked,and that shows that they were not that way in the beginning,but after a while they began to wax wicked.

1088 Q:-It reads "This people began to wax in iniquity;

they understand not the scriptures,for they seek to excuse themselves in committing whoredoms,because of two things which were written concerning David and Solomon his son." Now does that not show that they had lapsed into wickedness of which polygamy was one phase? A:-They had been practicing it according to this,but they had run it into wickedness,and he gave them a revelation commanding them to stop it.

1088 Q:- Now is it not a fact,and the truth that they wanted to go into polygamy and took the cases or examples of David and Solomon as an example or excuse to justify their action,and the Lord called that a crime?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper re-cross examination,and calls for an opinion of the witness.

A:-No sir.

1090 Q:-It is not? A:-No sir.

1091 Q:-Is that the only place in the book of Mormon that you referred to? A:-I believe that is all.

1092 Q:-And you are willing to rest your case on plural marriage on that as a starting point? A:-Yes sir. As a starter and an end too.

1093 Q:-Well now will you tell me where the Lord ever revealed to the Nephites that they should go into polygamy?

Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not proper re-cross examination.

A:-No sir.

1094 Is there any such a doctrine in the book of Mormon as the command of the Lord for anybody to go into polygamy,or have more wives than one? A:-I believe that is all I know of.

1095 Q:-That is the only thing you know of in the book of Mormon? A:-Yes sir.

1096 Q:-And that says in distinct terms that a man shall not have more than one wife? A:-Well it says they are to stop it and not have more than one wife until he permits them to have them,-and they were to live pure,and if it had only been kept in its purity from that day to this it would have been a grand and good thing.

1097 Q:-Have you been taught that as the interpretation of this? A:-Yes sir.

1098 Q:-You have been taught that by the President and leaders of the church here? A:-Yes sir.

1099 Q:- By Brigham Young and John Taylor and Woodruff? A:-Yes sir.

1100 Q:-You have been taught that? A:-Oh,yes,I guess so. In some of them at any rate.

1101 Q:-You were married in 1837 to your present husband? A:-No sir.

1102 Q:-No not in 1837,but in 1841 I meant to say? A:-Yes sir,that is right.

1103 Q:-And your husband,George A. Smith,is living yet? A:-No sir.

1104 Q:-Did he ever have more than one wife sealed to him? A:-Oh do stop now. You said a long time ago that you only had one more question to ask me,and you have asked me more than a hundred I know since that time, so do stop now,and don't go into that,for it can do no possible good. Let us go home.

1105 Q:-Well if you will be patient and answer the questions I ask you I can promise that you can go home pretty soon,-did your husband

George A. Smith,have more than one wife? A:-I don't
see what that has to do with this matter,-
Counsel for the defendants objects to the question asked
the witness for the reason and on the ground that it
is incompetent,irrelevant and immaterial,and not
proper re-cross examination.
A:-Yes sir.
II06 Q:-Did you consent to your husband George A. Smith
having more than one wife? A:-Yes sir.
II07 Q:-How many? A:-Well there you go,-can't you let me
go?
II08 Q:-Yes when you answer these questions,-and I will
say right now you can go as far as we are concerned
if you will answer a very few questions more,-how
many wives did you consent to your husband having?
A:-It is no matter how many there was.
II09 Q:-Well was it two or more than two? A:-Two.
III0 Q:-Was it more than two? A:-Yes sir.
III1 Q:-Was it four,-just state the number and it will
save time? A:-Well it was five.
III2 Q:-It was five? A:-Yes sir.
III3 Q:-Do you know Mrs.Thompson that lives here in Salt
Lake City,three blocks west and one north of here?
A:-Yes sir.
III4 Q:-How long have you known her?
Counsel for the defendants objects to the question asked
the witness on the ground and for the reason that it
is incompetent,irrelevant and immaterial,and not
proper re-cross examination.
A:-I have known her a great many years,-over half
a century.
III5 Q:-Where did you know her? A:-I knew her in Nauvoo
and in Missouri.
III6 Q:-What is her first name please? A:-Mercy,I believe
it is,-yes I believe that is it.
III7 Q:-Did you know her when she was the wife of John
Taylor? A:-I knew her when she was Robert Thompson's
wife.
III8 Q:-Did you know her when she was the wife of John
Taylor? A:-I did not know that she was his wife. If
she was his wife I didn't know it.
III9 Q:-Did you know her when she was the wife,-did she
hold herself out as being the wife,or being sealed t
to John Taylor?
Counsel for the defendants objects to the question asked
the witness on the ground and for the reason that it
is incompetent,irrelevant and immaterial,and not
proper re-cross examination.
A:-I never asked her,and I don't know that she was
his wife,or was sealed to him.
II20 Q:-Have you heard her say so? A:-Say so,what?
II21 Q:-That she was or had been the wife of John Taylor,
or was sealed to him? A:-No sir.
II22 Q:-Then you don't know anything about it? A:-No sir,
I don't know anything about it at all.
II23 Q:-Did you ever hear her say anything about her
having been sealed to Hyrum Smith? A:-No sir.
II24 Q:-Did you ever know her when she was the wife of a
man by the name of Lawson? A:-Yes sir.
II25 Q:-You have heard of that? A:-Yes sir,and I think
that when I came to the Valley she was Lawson's wife
then.
II26 Q:-That was in '49 about? A:-Yes sir,that was in
1848,and I think she was living with him then.
II27 Q:-She lived with him here quite a while? A:-Yes sir
and I have heard her say she was married to him.

II28 Q:-Was John Taylor living at the same time? A:-Yes sir,I suppose he was.
II29 Q:-Well was he? A:-Certainly he was. It was when we first came here,and of course he was living,for it is only a few years since he died. I don't know mind you that she ever was his wife.
II30 Q:-Do you know whether or not John Taylor was living at the same time that Lawson was? A:-Yes sir,of course he was living,but then he was not her husband that I knew of.
II31 Q:-How do you know that? A:-I say I don't know that she was.
II32 Q:-That is you don't know that she was ever married to John Taylor? A:-No sir.
II33 Q:-But you do know that she was married to Lawson? A:-Yes sir,I suppose so. She lived with him,and she has told me that she was married to him,and I suppose she was.
II34 Q:-How long did she and Lawson live together? A:-I don't know.
II35 Q:-Did they live together until he died? A:-No sir, for he is living yet I believe.
II36 Q:-Do they live together now? A:-No sir,they have not lived together for along time,-several years anyway,-I don't know how long it is. They parted several years ago,but I don't know the time or the particulars about it.
II37 Q:-Now have you been taught here,and is it the law of the church here,that a woman can have two husbands living at the same time?
Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons that it is incompetent,irrelevant and immaterial,and not proper re-cross examination.
A:-No sir.
II38 Q:-That is not the law of the church? A:-No sir.
II39 Q:-And you have never heard it taught here by the church,-that a woman can have two husbands living at the same time? A:-No sir,I have never heard that taught.
II40 Q:-Would it be a violation of the law if it was taught? A:-Yes sir.
II41 Q:-Could the woman that has two husbands living at the same time unless they had been divorced by a court be guilty under the law of your church?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it calls for an opinion of the witness on a question of law,and is incompetent,and not proper re-cross examination.
II42 Q:-Well I will waive that question,-would it be violation of the laws of the church for one woman to have two husbands living at the same time,without being divorced from one of them? A:-I think it would
II43 Q:-Would it not be contrary to the laws and rules of the church as found recorded in the book of Doctrine and Covenants?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and does not call for the best evidence.
II44 Q:-That would be in violation of the law in the book of Doctrine and Covenants,would it not? A:-Well you said a little while ago that all the covenants were done away with.
II45 Q:-No,-I was reading a new and everlasting one,-that is the one that is not done away with according to the doctrine of your church? A:-No sir,I guess that is all right.
II46 Q:-Well would it not be a violation of that new and

everlasting covenant for one woman to have two husbands living at the same time? A:-I think it would be.

II47 Q:-That is all.

By Mr. Hall,-"I object to ~~XXXXXXXX~~ any and every question that has been asked in this re-cross examination, on the ground that they are incompetent, irrelevant and immaterial, and improper re-cross examination, and move that they be stricken from the record with all the answers.

By Mr. P.P.Kelley,-

II48 Q:-I want to re-introduce this witness for a few questions that I neglected to ask her?

By Mr.Sabell,-"Counsel for the defendants objects to the re-introduction of this witness on the ground that her deposition has been closed and she has been dismissed at the time that plaintiff asked permission to again place her on the witness stand."

By Mr.P.P.Kelley,-"Plaintiff's counsel claims that they desire to cross question the witness on a question that they overlooked, and are going to before the witness left the room, and claim they have the right to do so."

By Mr. Sabell,-"One other item in my objection is that the reporter taking this examination, after the plaintiffs had announced that they were through with the examination on this day announced that the further taking of testimony herein would be adjourned until tomorrow morning, at nine o'clock,-or at the hour of half past nine o'clock."

By Mr.P.P.Kelley,-

II49 Q:-You were acquainted with Joseph's,-Joseph Smith's family intimately were you not? A:-Yes sir.

II50 Q:-Your husband was a relative of Joseph's was he not? A:-Yes sir,a first cousin.

II51 Q:-Consequently you were well acquainted with the family? A:-Yes sir.

II52 Q:-You knew his children? A:-Yes sir.

II53 Q:-Did you know any children of Joseph Smith except Joseph,David,Alexander and Frederick? A:-No sir.

II54 Q:-That was all? A:-Yes sir,that was all that I know.

II55 Q:-Were you subpoenaed to come here today? A:-No sir I was not subpoenaed.

II56 Q:-Then you came here without being subpoenaed? A:-Yes sir,I presume so.

Witness fees $1.50 paid by defendants.

It being impossible to complete the taking of the depositions herein on this day,the further taking of the same was continued by the examiner until the hour of 9.30 o'clock A.M. on Saturday the 19th day of March 1892,to be continued at that time and place in that behalf herein before set forth.

Now on this 19th day of March 1892 at the hour of 9.30 o'clock A.M. the same being the time to which the further taking of these depositions was adjourned on yesterday,come the parties hereto,and the further taking of the depositions of the witnesses herein was continued, pursuant to adjournment.

Rathsheba Smith

Emily [illegible] Young, of lawful age, being produced, sworn and examined on the part of the defendants, testified as follows,-

Direct examination by Mr Hall,-

T [illegible] Young? A-I live in Salt Lake [illegible]

Q- [illegible]

Territory?

Q [illegible]

Q [illegible]

5 [illegible]

6 [illegible]

7 [illegible]

8 [illegible]

9 [illegible]

10 [illegible]

11 [illegible]

12 [illegible]

I4 Q- [illegible] A-Y[illegible]

I5 Q- [illegible] -At the [illegible]

I6 [illegible] A-[illegible] with the [illegible] his [illegible]

I7 Q-I [illegible] you to state what you know in [illegible] or moral [illegible], or what is [illegible] its [illegible] or practice [illegible]

Counsel [illegible] plaintiff objects to the question asked [illegible] incompetent, irrelevant and immaterial, and leading, and [illegible] say.

A-I [illegible] to answer this question?

I8 Q-I [illegible] your [illegible] attention to this objection or any [illegible] to say [illegible] to say, and then you go on and answer the question the same as if he had not said anything? A-Very well, personally I think he taught the doctrine, for he taught it to me with his own lips.

I9 Q-Will you state the circumstances?

Counsel for the plaintiff objects to the question asked

19 Q-Well state the circumstances?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, leading, and hearsay.

A-Well he taught it to me himself in Nauvoo.

20 Q-Who did? A-Joseph Smith the prophet.

21 Q-State to the reporter the circumstances of the teaching and practice of this principle?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, leading, and hearsay.

A-Well I will tell it as near as I can. I was living [illegible], and had been living [illegible] in his family [illegible] after my mother's death, [illegible] in Nauvoo.

22 Q-[illegible] living at [illegible]? A-[illegible], and he came into the room [illegible] a secret, and I [illegible] I could, and then he told me [illegible] if he had an opportunity, he could tell me [illegible] for my benefit, if I [illegible], and I told him I wouldn't. [illegible] I don't know just how long, [illegible] an opportunity of saying anything [illegible] than he had, and one day he sat in the room alone, and I [illegible] through it, and he called me, [illegible] and called me to him, [illegible] tell [illegible] something, [illegible] to do, and [illegible], [illegible] it, and with that I looked [illegible], [illegible] something about it that [illegible] right, [illegible] that I [illegible] right, [illegible], and then [illegible], and I [illegible], [illegible] about it [illegible], [illegible], and there [illegible] in '42, [illegible], and I did not think [illegible], but I [illegible] about it [illegible], and I had [illegible] it [illegible], and it [illegible] to it,— [illegible] or [illegible], [illegible] it, and so I [illegible] to [illegible]. [illegible] convinced [illegible], [illegible] to say, but [illegible]. I think it [illegible] about it,—but I don't [illegible], [illegible] opportunity [illegible].

Counsel for the plaintiff [illegible] to exclude the [illegible] witness from the record for the reason that it is not responsive to the question.

23 Q-Well go on and finish your answer? A-He told me [illegible] that he wanted to say to me, and he taught me the principle of plural marriage [illegible], but we called it celestial marriage, and he told me that this principle had been revealed to him, but it was not generally known; and he went on and said that the Lord had given it to him, and he wanted to know if I would consent to a marriage, and I consented

24 Q-Well were you married to him? A-Yes sir, I was

I remember seeing her there in the room but I could not say as to whether she was present just at the time we were married or not.

[illegible] married to him on the 4th day of March 1843, and after [illegible] year, I think it was in May, [illegible] had [illegible] should have more wives than one. [illegible] married again [illegible] married, - that [illegible]

Com [illegible]

26 [illegible]

27 [illegible] was [illegible]

28 [illegible]

29 [illegible]

Examination continued by the counsel for the defendants.

30 [illegible] but two [illegible]

Com [illegible]

31 [illegible] rather [illegible] anything about it. [illegible]

Com [illegible]

32 [illegible] second [illegible]

33 [illegible]

34 [illegible] yes [illegible]

Com [illegible]

35 [illegible] Mr.

36 Q-Who was it?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial.
37 Q-Who was it? A-Orson Hyde. I am married to Orson Hyde's daughter Olivia, and I know which one it was for his name was Mary Ann Price.-Now I think that I could not be positive about it,-I would not [illegible] that was the name for I did not see him [illegible] with
38 Q-Did you or did you not marry Mary Ann Price at the time you married to Olivia?
Counsel for the plaintiff objects to the question as leading, and for the reason that it is incompetent, irrelevant and immaterial.
A-[illegible]
39 Q-[illegible]?
Counsel for the plaintiff objects to the question as [illegible]
A-[illegible]
40 Q-[illegible]
[illegible] Smith? A-Yes sir, [illegible]
41 Q-[illegible] you know in [illegible]
Counsel for the plaintiff objects to the question as incompetent, irrelevant and immaterial, and is leading, and is not [illegible] the fact.
A-[illegible]
[illegible] but the revelation was given [illegible]
[illegible] but
42 Q-[illegible] or written?
Counsel for the plaintiff objects to the question as leading, irrelevant and immaterial, and is a cross [illegible]
A-[illegible] but I was [illegible] but I can't [illegible] written, but I know that it was given that we [illegible]
43 Q-[illegible] that the revelation was given?
Counsel for the plaintiff objects to the question as incompetent, irrelevant and immaterial.
44 A-[illegible]
I mean to say that [illegible] will be told [illegible] a revelation.
Counsel for the plaintiff objects to the answer of the witness, and moves the court to exclude it from the jury for the reason given and on the further ground that it puts [illegible] communication between a living person [illegible]
A-I [illegible] Smith told me that the angel had given him that revelation.
45 Q-[illegible] Smith [illegible] to you prior to that? A-[illegible] Smith the prophet told me that.

46 Q-That is all?
Cross Examination by P.P. Kelley,-

47 Q-[illegible] born in 1822 or 1824? A-1824 it was.
48 Q-In 1824 you were born? A-Yes sir.
49 Q-And you [illegible] into the church when you were [illegible] old, Judge, [illegible]? A-[illegible]
[illegible]
50 Q-[illegible] Society, [illegible]?
A-[illegible].
51 Q-[illegible]? A-[illegible]
52 Q-[illegible] old? A-[illegible] II
[illegible]
53 Q-[illegible]? A-[illegible]
[illegible]
54 Q-[illegible]? A-[illegible]
[illegible] I
55 Q-[illegible]? A-[illegible]
56 Q-[illegible]? A-[illegible]
57 Q-[illegible]? A-[illegible]
58 Q-[illegible]
59 Q-[illegible]? A-[illegible]
60 Q-[illegible]?
A-[illegible]
61 Q-[illegible]? A-[illegible]
62 Q-[illegible]
63 Q-[illegible]
64 Q-[illegible]? A-[illegible]
65 Q-[illegible]
66 Q-[illegible] called
67 Q-[illegible] ONY OF [illegible]? A-[illegible]
68 Q-[illegible]
69 Q-[illegible]? A-[illegible]
70 Q-[illegible]
A-[illegible]

71 Q-You don't remember that you were at that conference
A-No sir. I presume there was such a conference that
[illegible] was every year, but I don't recollect
[illegible]

72 [illegible]

73 [illegible] A-Yes [illegible]

74 [illegible] A-I don't [illegible]

75 [illegible]

76 [illegible]

77 [illegible]

78 [illegible] month [illegible] sir,

79 [illegible]

80 [illegible]

81 [illegible]

82 [illegible]

83 [illegible]

84 [illegible]

85 [illegible]

86 [illegible]

87 [illegible]

88 [illegible]

89 [illegible]

90 [illegible]

91 [illegible]

92 [illegible]

93 [illegible]

94 [illegible]

95 [illegible]

96 [illegible]

97 [illegible]

98 [illegible]

99 Q-[illegible] say it was not generally known in his day?
A-[illegible]

100 Q-[illegible] it known at all in his day? A-I [illegible]
[illegible]

101 Q-[illegible] you not [illegible] whether it was or was not? A-I
[illegible] not, [illegible] about it, then at all.

102 Q-Y[illegible] about it, or that, [illegible]? A-[illegible],-
[illegible]

103 Q-[illegible] time [illegible] do you? A-I [illegible]
[illegible] time [illegible] you, [illegible] was [illegible] that
[illegible]

104 Q-[illegible]? A-[illegible]

105 Q-[illegible] you ever see, [illegible] now? A-[illegible]

106 Q-Yes Ma'am.

107 A-[illegible] I ever did? Q-I [illegible]

108 Q-[illegible] in this [illegible] or two [illegible] A-[illegible]
[illegible]

109 Q-[illegible]

110 Q-[illegible]? A-[illegible]

111 Q-[illegible] th[illegible]
[illegible] and it [illegible]

112 Q-[illegible] A-[illegible]
[illegible] drive a car.

113 Q-[illegible] A-Y[illegible]

114 Q-[illegible] A-[illegible]

115 Q-[illegible] A-I [illegible]

116 Q-[illegible] was it [illegible]
A-[illegible]?

117 Q-[illegible] A-[illegible] it
[illegible] or, -I can't say [illegible] it [illegible]
[illegible] to live.

118 Q-[illegible] within a certain or two [illegible] it
[illegible]? A-[illegible]

119 Q-[illegible] in 1940 [illegible] that you [illegible]
[illegible] Joe [illegible] Smith, [illegible] it? A-[illegible]
[illegible]

120 Q-[illegible] your [illegible] in [illegible] Joe's, and you say it
[illegible] or three months [illegible]
[illegible] to live after your [illegible]?
A-[illegible] I did not say that, -I-now I [illegible]
[illegible] after [illegible], but I [illegible] I [illegible] pro-
[illegible] it.

121 Q-[illegible] it, not at [illegible] that you [illegible]
[illegible] Joe [illegible] Smith? A-Well I don't know [illegible]
[illegible] it, [illegible]. I don't remember the date [illegible] very well,
[illegible] it [illegible] have been in 1942 [illegible] I [illegible].

I22 Q-Well I would like to have your best selection as to time,-that is go to the date you want to live with at Joseph MOXEY'S house with P P P to

I23 [illegible] I think

I24 [illegible] any live

I25 [illegible]

I26 [illegible]

I27 [illegible]

I28 [illegible]

I29 [illegible]

I30 [illegible]

I31 [illegible]

I32 [illegible]

I34x [illegible]

I35 [illegible]

I36 [illegible]

I37 [illegible]

I38 [illegible]

I39 [illegible]

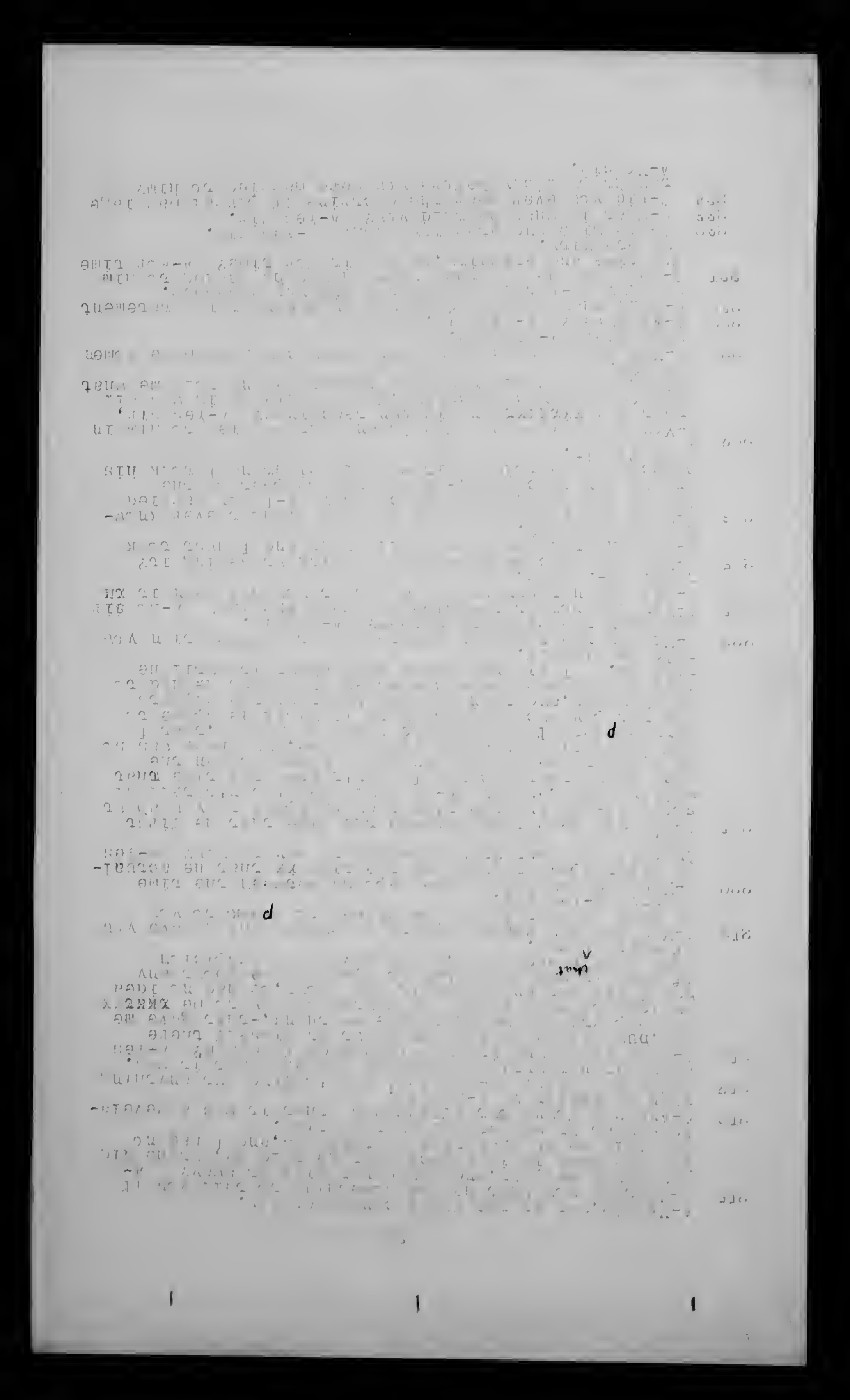
I40 [illegible]

that he had something

160

after

the



240 Q—I said either privately or publicly? A—Well, no, I never did.

235 Q—Had you ever heard of its being taught or having [illegible] in the church, prior to the time that you [illegible]? A—[illegible] sir I never heard anything [illegible] told me.

236 Q—[illegible] you ever heard any [illegible]?

237 Q—[illegible]

238 Q—[illegible]

239 Q—[illegible] ever [illegible]

X

241 Q—[illegible]

242 Q—[illegible]

243 Q—[illegible]

244 Q—[illegible]

245 Q—[illegible]

246 Q—[illegible]

247 Q—[illegible]

248 Q—[illegible]

249 Q—[illegible]

250 Q—[illegible]

251 Q—[illegible]

252 Q—[illegible]

253 Q—[illegible]

254 Q—[illegible] afternoon, [illegible]

255 Q—[illegible] afternoon, [illegible]

256 Q—[illegible]

257 Q—[illegible] I rather think [illegible].

258 Q—[illegible] in the church? A—Yes sir, [illegible] in the [illegible]. If it had not been he could [illegible] have performed the ceremony.

240 Q—I said either privately or publicly? A—Well, no, I never did.

235 Q—Had you ever heard of its being taught or having [illegible] in the church, prior to the time that you [illegible]? A—No sir I never heard anything [illegible].

236 Q—[illegible] had you ever heard any of [illegible]?

237 [illegible]

238 Q—[illegible]

239 [illegible] ever [illegible]

X

241 [illegible]

242 [illegible]

243 [illegible]

244 [illegible]

245 [illegible]

246 [illegible]

247 [illegible]

248 [illegible]

249 [illegible]

250 [illegible]

251 [illegible]

252 [illegible]

253 [illegible]

254 [illegible]?

255 [illegible]

afternoon, [illegible]

256 [illegible]

257 [illegible]

258 [illegible] ceremony.

that he need in the performance of that ceremony.

[illegible]

259 Q-Was he an elder in the church? A-Yes sir he was an elder in the church. If he had not he might have [illegible] performed the marriage ceremony.

260 Q-Is he the man who married you the second time you married? A-Yes sir.

261 Q-Was he in any way [illegible] the law? A-The marriage ceremony.

262 Q-Was it the law that was prescribed in the [illegible] ceremony? A-Yes sir. I [illegible] to the best of my recollection.

263 Q-Was that [illegible] your best recollection [illegible] the ceremony? A-I don't say positively what it [illegible].

264 Q-[illegible] you were quite [illegible] that it [illegible] the [illegible] prescribed in the [illegible] A-Yes sir, I [illegible] positively.

265 [illegible]

266 [illegible]

267 [illegible]

268 [illegible]

269 [illegible] much [illegible]

270 [illegible] I could [illegible] I think.

271 [illegible]

272 [illegible]

273 [illegible]

274 [illegible]

275 [illegible]

276 [illegible]

277 [illegible]

278 [illegible]

279 [illegible]

280 [illegible]

281 [illegible]

282 [illegible]

283 [illegible]

284 [illegible]

285 [illegible]

-You don't
put in this

309 Q-Who roomed with Joseph Smith that night? A-That day
310 Q-Who roomed with Joseph Smith that night? A-The night
of that day

the IIth of May I843 when you say you and your sister were married to Joseph Smith? A-Well I don't want to answer that question?

By Mr Hall,-

3II Q-Well answer it if you can, if you know? A-Well it was myself.

3I2 Q-Now you have answered it, and that will do?

By Mr Kelley,-

3I3 Q-You roomed with Joseph Smith that night? A-Yes sir.

3I4 Q-Where was Emma? A-She was in her room I suppose. I don't know where she was but that ~~x~~ is where I supposed she was.

3I5 Q-Was she there? A-I supposed she was there in her room.

3I6 Q-Was she there at the house? A-Yes sir.

3I7 Q-You know she was there at the house"? A-Yes sir. Well I think she was, but I don't know it,-I have no reason to think she was any where else than there at the house.

3I8 Q-Well do you know whether she was or not? A-Well I don't know positively whether she was or not, but I have every reason to believe she was there.

3I9 Q-Are you willing to swear that she was in the city of Nauvoo at all? A-Yes sir, she was in the city of Nauvoo.

320 Q-You are positive that she was in the city of Nauvoo A-Do you mean that night.

32I Q-I mean the day that you claim that you and your sister were married to Joseph Smith ar at any other time that day or night, or the day before? A-Yes sir she was there, and if she went away I know nothing ~~of it at all~~ about it at all.

322 Q-She was there that night,-you recollect that definitely? A-I don't remember particularly of seeing her, but I have every reason to think that she was there.

323 Q-Are you willing to swear that she was there?
A-No sir, I am not willing to swear that she was there

324 Q-Are you willing to swear that she was there that night? A-No sir, ~~I could not swear positively that~~

she was ~~not~~ there ~~that night.~~

~~325 Q-Then you are not willing to swear that she was there that night? A-No sir, I~~ but I have every reason to believe that she was there, and I do believe that she was there too.

325 Q-Then you are not willing to swear that she was there that night? A-No sir, I could not swear positively that she was there that night.

326 Q-Are you willing to swear that she was there that ~~she was there that~~ day at all? A-Yes sir, I am willing to swear that she was there that day.

327 Q-In the afternoon? A-Yes sir she was there in the afternoon. She was there all day, and if she went away it was after night, and I have no reason at all to think or believe that she went away at all.

328 Q-She was there at the time of your marriage and your sistera marriage to Joseph, ~~Smith~~, her husband, and consented to that marriage? A-Yes sir.

329 Q-Now to refresh your recollection Mrs Young I will read from page two hundred and twenty six in the historical record from an affidavit of Willaim Clayton,-did you know William Clayton? A-Yes sir.

Counsel for the defendant objects to any portion of the historical record, so called, being read for any purpose whatever, on the ground that the book has not been identified by the witness.

330 Q-That is the biography you wrote yourself, is it not Mrs Young (handing witness book)? A-Well I can't see it. I will have to get my glasses,-shall I read it?

33I Q-Yes you can look it over and see if it is your

as the date

A-Yes sir I think it is.

332 Q-You need not read it aloud?(after reading or looking over the part of the book pointed out to the witness ,witness answers) A-Well this says I was about eight years of age when I was baptized,and it says May 27th when my father died,but I think that must be a mistake,is it not?

333 A-Well the Times and Season gives the same date Mrs Young? A-Then that must be right.

334 Q-Do you recognize that as the statement you made? A-Yes sir,as far as I have read it is.

335 Q-What book is it found in? A-Well it is the historical record I guess it is correct.

336 Q-Did you write all that record there? A-I wrote all of it regarding myself.

337 Q-You wrote all of it so far as it refers to yoursolf A-Yes sir I think so.

338 Q-Now you say that Emma Smith consented her own free will and agreed to you and your sister marrying Joseph? A-Yes sir I think so.

339 Q-Well did she? A-So far as I know she did.

340 Q-Well you have stated that she did,-you haven stated positively haven't you that she did? A-Well I think she did. She was there and saw it.And I expect she would not have been there if she had not consented to it.

341 Q-Well did she consent to your knowledge? A-Yes sir she did.

342 Q-Well what did she say? A-I don't remember the words she said

343 Q-Did she say anything at all in your presence? A-In what way?

344 Q-By way of giving her consent? A-Yes sir she consented to it in my presence.

345 Q-Well do you recollect anything that she said about it? If she consented in your presence you ought to remember something that she said? A-No sir I don't recollect the words.

346 Q-Let me refresh your recollection by reading from page two hundred and twenty six from the affidavit of William Clayton in the same book,-"Hyrum then took the revelation to read to Emma. Joseph remained in the office with me until Hyrum returned. When he came back Joseph asked him how he had succeeded,and Hyrum replied that he had never received a more severe talking in his life;that Emma was very bitter and full of dissapointment and anger,and Joseph quietly remarked"I told you,you did not know Emma as well as I did",Joseph then put the revelation in his pocket,and they both left the office". Now that affidavit was made in July 1843,and that affidavit of Clayton's states that that conversation to which I have referred,or called your attention to in regard to what transpired there occured in July 1843 more than two or three months after you say you were married in May? Is that not a fact?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason"that there is no evidence to show that what counsel has read to the witness is any part of an affidavit made by Clayton".

A-That is all right. That occured after our marriage -for she was very bitter o ver it after the marriage but she consented to it at the time. I said before that she was bitter after that,and if I did not I meant to say so,and I think I did.

347 Q-She turned bitter then from the moment that you were married? A-Yes sir in a short time after we were married she did.

368 Q- The millenial Star was your church paper here in Utah at one time? A — Yes sir, I believe it was.

348 Q-Is that what you say in your affidavit? A-That is not an affidavit of mine. I made no affidavit about anything there.
349 Q-Well it is in your biography here? A-Say what,-
350 Q-That she turned bitter from the minute that you were married? A-Well I might have said that,but I meant from a short time after we were married,-It might have been from the hour we were married. I know she was bitter soon after that,but I can't say how long it was afterwards that she got that way,but I know it was very soon after that.
351 Q-Well about what time did she turn bitter? A-Well after the next day you might say that she was bitter
352 Q-Now you say that you wrote this biography yourself? A-Yes sir.
353 Q-And you used this language in it,-"From that very hour(meaning the hour when you were married)Emma was our bitter enemy". What do you mean by that? A-Well that is not an affidavit.
354 Q-Well,it is a statement prepared by you and purporting to be published as the truth is it not? A-Yes sir.

355 Q-Well is that the truth? A-Well I say I think she did turn against us. I did not make any affidavit that is was true though.
356 Q-You did not make any affidavit that Emma was there at all? A-No sir.
357 Q-Well would you make an affidavit that she was there at all? A-Yes sir"
358 Q-You would? A-Yes sir,I would,for I know she was there. She was there,and she gave her consent freely and voluntarily.
359 Q-And then she went back on you that very hour,or very soon thereafter? A-Yes sir.
360 Q-And you left the house right away? A-No sir,not right away,we did not leave the house for several months after that.
361 Q-You still---all the time that you remained there in the house at night you occupied the same room with Joseph Smith? A-No sir.
362 Q-Is that not what you stated a while ago? A-No sir.
363 Q-Well did you occupy the same room with him at nights after that? A-No sir,never after that. She turned against us after that.
364 Q-Did you have any children by Joseph Smith? A-No sir.
365 Q-What day of the week was it you were married on? A-I can't tell you.
366 Q-Well give us the best of your recollection on that? A-I can;t remember what day of the week it was.
367 Q-You don;t recollect what time it was with reference to the day of the week? A-No sir.
369 Q-Now to refresh your recollection again I will read from the Millenial Star on page seventy five from the history of Joseph Smith ,as printed by President Brigham Young?
Counsel for the defendants objects to the counsel for the plaintiff reading from the Millenial Star or any part of it,on the ground that it has not been identifed in a manner that will make it competent evidence in this case.
370 Q-Is that the Millenial Star(handing witness a book) A-Yes sir.
371 Q-What year was it published in? A-Well I can't see the date without my glasses,and so you will let me get my glasses on before I can tell you.
372 Q-Well can you tell what the date is now. A-It was published

so this says on Saturday January Ist 1859,-that is what that says.

373 Q-Now I will read from it from page 75,-this is the Millenial Star which the witness has identified,- Thursday May IIth 1843,-it is as foblows,-"Thursday the IIth day of May 1843,at six A.M.,baptized Louisa Beeman,Sarah Alley and others. At 8 A.M. Went to see a new carriage made by Thomas Moore,which was ready for travel. Emma went to Quincy in new carriage. I rode out as far as Prairie. IO A.M.,B. Young, H.C. Kimbal,P.P.Pratt,O.Pratt,O. Hyde,W.Woodruf, Geo A. Smith,John Taylor and W.Richards assembled in council and voted that Addison Pratt,Noah Rogers, Benjamin F. Gronard,Knowson F. Hanks,go on a mission to the Pacific isles. Captain Dan Jones prepared himself to take a mission to Wales;James Sloane to go to Ireland;Reuben Headlock,John Kearne and Samuel James to England,and that Reuben Headlock preside over the church,etc,be assisted by elders Hyrum Clarke and Thomas Ward. That the brothers Kearnes go to Scotland. Lucius M. Scoville go to England under the direction of Brother Headlock ,and that Amos Fielding go immediately to Nauvoo,or be cut off from the church. Also that this Quorom recommend George Walker to president Joseph Smith as clerk of the Nauvoo house. President Young stated that Woodworth had offered the use of his draft for the Nauvoo House x x x if any one would copy it but he had not time to comply with the request of the Quorom for a full draft" Now that is a private journal of Joseph's Smith's for the IIth of May 1843 ,the day that you say you were married to him. What do you say to that? A-Well it is possible that I have made a mistake in the dates,but I haven't made any mistakes in the facts. I know that,-I may be mistaken in the date though,but I know I am not in the fact.

374 Q-You have not made a mistake in the facts? A-No sir

375 Q-But you may have made a mistake in the date? A-Yes sir,but I have made none in the fact that we were married.

376 Q-Well now was it before or after this date then? A-That we were married to Joseph Smith?

377 Q-Yes ma'am? A-Well it must have been before that.

378 Q-It must have been before that? A,Yes sir,if I have made a mistake in the dates it must have been before that.

379 Q-But you have been claiming ever since 1843 that it was the IIth of that you were married to him the last time? A-It has been in my mind ever since that that was the date.

380 Q-Have you got a marriage certificate? A-No sir.

381 Q-Did you ever have one? A-No sir.

382 Q-Why did you not get one? A-Well it was not thought necessary in those days.

383 Q-Now did you pass as Emily D.P. Smith in Nauvoo? A-No sir,I did not.

384 Q-Were you ever introduced by Joseph Smith as his wife? A-I don't remember that I ever was.

385 Q-You did not go by that name while you were living in Nauvoo ? A-No sir.

386 Q-That is during the life time of Joseph Smith? A-No sir,I did not pass as his wife.

387 Q-Did you at any time or place during his life time go by the name of Emily D.P. Smith? A-No sir.

388 Q-Were you ever held out by Joseph Smith as his wife in public? A-No sir.

389 Q-You never were? A-No sir.

390 Q-Was you sister ever held out as his wife publicly, to your knowledge? I mean your sister Eliza who you say was married to him on the II th of May 1843 at the same time that you were? A-No sir.

391 Q-Neither of you were? A-No sir,for these things were not published or made public then. This was a secret matter that very few knew anything about at all.

392 Q-There was nothing of publicity about it? A-No-sir it was peivate.

393 Q-How many children did you have by Joseph Smith? A-None at all. I have told you two or three times I had none.

394 Q-Now you say that in the fall of the year that Joseph Smith died,you were married to Brigham Young? A-Yes sir.

395 Q-You were married to Brigham Young by the law of proxy? A-Yes sir.

396 Q-And while married to Brigham Young by the law of proxy you had children? A-Yes sir.

397 Q-You had children by Brigham Young? A-Yes sir.

398 Q-Then the law of proxy,-marriage by the law of proxy will raise children,while marriage by the law of the church will not? Is that it? A-I don't understand your question.

399 Q-My question is this,-that when you were married by the law of proxy you had children? A-Yes sir.

400 Q-And when you were married under the law of the church you did not raise children? A-I did not have any,but I don't know that that had anything to do with it,for I might have had children married that way as well as under any other marriage relation.

401 Q-But you did not have any when you were married to Joseph Smith? A-No sir.

402 Q-You did by Brigham Young though when you were married to him by proxy? A-Yes sir,but that did not have anything to do with it.

403 Q-You were in Nauvoo at the time that Joseph Smith was killed? A-Yes sir.

404 Q-You appeared at the funeral as who widow of Joseph Smith? A-No sir.

405 Q-You did not? A-No sir I did not.

406 Q-You did not appear as one of the mourners? A-No sir.

407 Q-Did your sister? A-No sir.

408 Q-Why not? A-Because it was not generally known that we were married to him.

409 Q-Did any woman besides Emma Smith,Joseph Smith's first wife,appear at the funeral as mourners? A-I don't remember.

410 Q-You were there were you not? A-No sir,-not at the funeral.

411 Q-Then you did not go to the funeral of your husband? A-No sir I did not.

412 Q-Did your sister go"? A-I do not know that there was any funeral. I know that I went to see him after he was brought home,but I don't know that there was any funeral.

413 Q-Do you know where he was buried? A-No sir I do not.

414 Q-Did you ever plant a flower on his grave? A-No sir Counsel for the defendants objects to-the question,and to the line, of examination on the ground that it is incompetent,irrelevant and immeterial,and not cross-examination.

415 Q-Did you ever see his grave? A-No sir.

416 Q-Did you ever visit it? A-No sir.

417 Q-Don't you know that no lady on earth knew where he was buried except Emma Smith?

A-I can't say.

418 Q-Don't you know that it is a fact that no woman on earth know where he was buried except Emma Smith,his wife? A-I don't know whether any did or not. I don't know anything about that.

419 Q-You don't know anything about that? A-No sir.

420 Q-And your sister did not know? A-I can't say as to that,but I don't suppose she did.

421 Q-You were not at the funeral? A-I don't remember being at any funeral.

422 Q-You did not appear as his wife? A-No sir. How many times am I to have to answer these questions?

423 Q-You were never held out as his wife? A-No sir, not in public that I remember of.

424 Q-And you were married to Brigham Young; four and half months after Joseph Smith died? A-Perhaps so.

425 Q-Well was that not about the time? A-I think so.

426 Q-And your sister was married to some one else in about the same time? A-I don't know.

427 Q-Well how long was it after that? A-After what?

428 Q-After the time that Joseph Smith died,and your sister was married again? A-I don't know.

429 Q-Do you say you do not know how long it-was? A-I do.

430 Q-You were living with her? A-No sir.

431 Q-Who did she marry after Joseph Smith's death? A-She married Amasa Lyman.

432 Q-He was an elder in the church? A-Yes sir.

433 Q-And one of the Twelve? A-Yes sir,I believe so.

434 Q-And Brigham Young was also one of the Twelve? A-He was at that time.

435 Q-He was President of the Quorom of Twelve was not he at that time? A-I believe so.

436 Q-Don't you know he was? A-I think so,-I am pretty sure he was. That is my understanding of it.

437 Q-Now what do you mean by the law of proxy? A-I mean that it is the law of ~~xxxx~~ marriage by proxy.

438 Q-Were you married to Brigham Young by the law of proxy to raise children to Joseph Smith? A-Yes sir.

439 Q-Well have you raised any children in that way for Joseph Smith? A-Yes sir.

440 Q-Were they called Smith? A-Well they were named Smith.

441 Q-Are or were they called Smith? A-They are not called Smith publicly. They go by the name of Young now,but their right name is Smith.

442 Q-And Brigham Young was their father? A-Yes sir.

443 Q-And they are Joseph Smith's children? A-They are considered so.

444 Q-Well were they Joseph Smith's children? A-They are so by proxy. They are considered so by proxy.

445 Q-There are a good many children by proxy to Joseph Smith,out here,is there not? A-I don't know about that.

446 Q-Well don't you know that there is a good many children,-that there is a good many women out here who have married by proxy to raise children for Joseph Smith?

Counsel for the defendants objects to the question asked the witness andto all this line of examination,on the ground that it is incompetent,irrelevant and immeterial, and not proper cross examination.

A-I suppose so.

447 Q-How when you married Brigham Young,he covenanted during the marriage ceremony-that he would take care of you during your natural life,and in the resurrection he would turn you over to Mr Joseph Smith? A-Yes sir.

448 Q-And that is what you consider married by proxy? Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and improper cross examination.

Adjourned until I,30 P.M.

By Mr Cabell,-"Counsel for the defendants now moves the court to strike ~~out~~ from the record the statement which has been ~~xxxx~~ read by counsel for the plaintiff which purports to be a diary of Joseph Smith, published in a paper purporting to be the ~~Mxx~~ Millenial Star published in Liverpool,England,January Ist 1859,for the reason that the publication has not been properly identified as the Millenial Star ~~x~~ that was published at that time and in that place,and for the ~~xxxxxxx~~ reason that no evidence has been given to show that the printed diary of Joseph Smith found therein,was in fact the diary of Joseph Smith, or that it contained his whole diary for that date.

Cross examination continued by Mr P.P. Kelley,-

449 Q-Now the manner that you were married to Brigham Young in,is what you consider married by proxy? A-Yes sir. That is what I consider it meant.

450 Q-Then you were sealed to Joseph Smith at the same time that you were married to Brigham Young,were you not? A-Yes sir,I was sealed to him on that day.

451 Q-Yes ma'am? A-Yes ~~sir~~ not.

452 Q-When you were married to Brigham Young you were sealed to Joseph Smith? A-Yes sir.

453 Q-For eternity? A-Yes sir.

454 Q-Well how were you married to Brigham Young.-were you sealed to him also? A-Yes sir,but I was sealed to him for time.

455 Q-You were not sealed to him then for both time and eternity? A-No sir. Of course I was not sealed to Joseph Smith then for he was dead when I ~~xxx~~ married Brigham Young,but I had been sealed to him before that.

456 Q-Were you not sealed to him that day? A-No sir.

457 Q-You were not? A-No sir,for he was dead when I was sealed to Brigham Young.

458 Q-Was not the ceremony there that day to the effect that in eternity you would be the wife of Joseph Smith A-Yes sir I suppose so. I don't remember the words that were said but that was the purport of it.

459 Q-That you were sealed to Brigham Young during your natural life that day? A-Yes sir.

460 Q-And eternity you were to be the wife of Joseph Smith? A-Yes sir.

461 Q-But you never had any children by Joseph Smith? A-No sir.

462 Q-You did though by Brigham Young? A-Yes sir.

463 Q-When was the birth of your first child? A-It occured on the 30th of October ~~xxx~~ in '45.

464 Q-When did you leave Nauvoo? A-In '46.

465 Q-Then it was born at Nauvoo? A-Yes sir.

466 Q-What time did you leave Nauvoo in ~~xx~~ 1846? A-In the month of February I think.

467 Q-How when did Joseph Smith die? A-In'44.
468 Q-What time in 1844 did he die? A-In June,-it was the 23rd of June I think.
469 Q-Which was it the 23rd of June or the 27th? A-Yes sir that is right,-If I am not mistaken it was hte 27th Of June.
470 Q-Now you were mistaken when you said you roomed with Joseph Smith on the night of the 11th of May were you not? A-Well if that in there is correct I was mistak -n in the date.
471 Q-On what date do you desire to fix now of your as the date of you marriage to Joseph Smith? A-I don't desire to fix on any date at all. As I told you before I can swear to the fact that I was Married to Joseph Smith,but I can't swear to any date if that is not the right one. That is the date that has always been in my mind,and if it is wrong I can't fix any other date as being the correct date,but I can swear positively to the fact that I was married to him. If I am mistaken in the date I can't help it at all.
472 Q-Was he married to your sister previous to that date A-I suppose she was.
473 Q-Was what? A-Was married to him?
474 Q-Well do you know whether she was or was not? A-I suppose she was.
475 Q-I want what you know,and not what you suppose? A-I don't know only by her word.
476 Q-He was not married to her in your presence was he? A-No sir,not before that last time.
477 Q-Thatnis the time that you married him? A-Yes sir, that is the only time that I ever saw thos married.
478 Q-Had he roomed with her to your knowledge? A-No sir ,not to my knotledge.
479 Q-Did he ever room with her to your knowledge? A-No sir,I do not know anything about that at all.
480 Q-Had you roomed with him prior to that thime that you say you roomed with him at his house on the night after you were married the last time? A-No sir,- not roomed with him.
481 Q-Well had you slept with him? A-Yes sir.
482 Q-Slept with him prior to the time that you were married to him? A-What is that?
483 Q-I mean prior to the time that you were married to him,as you say,on the 11th of May? A-Yes sir I had prior to that.
484 Q-Had you before the fourth of March 1843? A-No sir
485 Q-Now at the time that you were married as you say on the 11th of May 1843 what was the ceremony? A-Well I say perhaps it was not the 11th of May,-
486 Q-You do not swear positively to the date of that marriage? A-No sir,but I say that I do to the fact that we were married.
487 Q-Well what was the ceremo ny on that occasion? A-Well I can't tell you, I can't repeat it.
488 Q-Did Emma take your hand and place it in Joseph Smith's hand? A-I think she did.
489 Q-Well are you willing to swear on your oath that she did? A-Well no,-It seems to-me that way,but then I think she did,but I could not swear to it at all.
490 Q-You cannot swear that she did? A-No sir.
491 Q-Have you seen that done since that time? A-Well I don't remember

X Brigham Young

whether I did or not.
492 Q-Did not Brigham Youngs wife do that with you when you married Brigham Young? A-No sir.
493 Q-Why did she not do it? A-She was not present.
494 Q-Well did she give her consent to your marrying X Joseph Smith? A-No sir,not to my knowledge,for she was not there.
495 Q-Were you married the second time to Brigham Young? A-Yes sir.
496 Q-You were married twice to him also? A-Yes sir.
497 Q-Did she give her consent the second time you were married to him"? A-No sir.
498 Q-Where was she? A-I don't know. She was not there.
499 Q-What was the date of your second marriage to Brigham Young? A-Well that is something that I can't tell you for I don't remember that either.
500 Q-Was it before you left Nauvoo? A-Yes sir.
501 Q-Where was the ceremony performed? A-It was in the temple.
502 Q-You said that your first child was born in October 1845? A-Yes sir.
503 Q-Was this second marriage to Brigham Young performed after that child was born A-Yes sir.
504 Q-Then it was in 1846 that you were married to him the second time? A-No sir,I don't remember when it was,but I think it was before that.
505 Q- Don't you know whether or not his first wife gave her consent to that marriage? A-No sir. I don't know whether she did or did not. I don' t know anything about it at all.
506 Q-Well do you know whether the second wife had to give her consent or not? A-No sir.
507 Q-You were not the second wife of Brigham Young? A-No sir.
508 Q-He had other wives at that time besides you? A-Yes sir.
509 Q-Now how many wives did Joseph Smith have besides yourself? AI don't know.
510 Q-Have you any knowledge on that subject at all? A-No sir.
511 Q-Do you know of any other child that was born in polygamy prior to the birth of yours? A-No sir,I don't know of any.
512 Q-Yours was the first one that was born in polygamy to your knowledge was it not? A-No sir.
513 Q-It was not? A-No sir. I think there were others born before that,but I don't know thos.
514 Q-Now when you first heard about this revelation,you say that it was on the question of sealing? A-It was what?
515 Q-It was a revelation on the question of sealing? A-On sealing did you say?
516 Q-I asked you if you did not state when you first heard of this revelation it was on the question of sealing or celestial marriage? A-Yes sir.
517 Q-It was a revelation on that subject? A-Yes sir.
518 Q-That is on sealing or celestial marriage? A-Yes sir
519 Q-And you are certain that that is what the revelation was about ain't you? A-Well I think so.
520 Q-Well now was it a revelation on the patriarchial order of marriage? A-Well I don't know whether you would call it"patriarchial marriage",or what you would call it.
521 Q-Well did Joseph Smith call it that? A-I don't know
522 Q-Well didn't he call it sealing,or celestial marriage? A-He generally called it celestial marriage,or sealing. It was called

sealing for it was for time and eternity.
523 Q-That was what it was called at that time? A-Yes sir
524 Q-Now he talked to you about that in 1842 did he not? A-About what?
525 Q-He taught you the principle of polygamy did not he at that time? A-No sir.
526 Q-Do you swear not that he did not teach it to you then? A-No sir I don't think that he taught me that principle then,-I don't think he did.
527 Q-Well he talked about the principle of celestial marriage in '42 and taught it to you then did he not? A-No sir I don"t think he said anything about that either then. I think it was after that.
528 Q-Have you not sworn here that he did teach you that in 'xx 1842? A-No sir,I said that he spoke to me and told me he had something to tell me but he did not tell me what it was at that time. It run on for some time before he told me what it was he had to tell me
529 Q-Well now from the time he offered to write you a let'er,or spoke to you about writin g you a letter, that was in '42 was it not? A-I think it was.
530 Q-And he had spoken to you before that? A-Well he said he had something to tell me,but he did not tell me what it was until after that.
531 Q-Then it was the second time he spoke to you about it that he said he thought of writing you a letter on the subject? A-Yes sir. He spoke of writing mea m letter,but he did not say what the subject was,and I did not know what the subject was until later.
532 Q-Well in the meantime you had heard the subject discussed? A-Well I had heard the reports that were out,and I thought that what he had to say to me might be something relating to that.
533 Q-You had heard outside by talking to-women that the subject of celestial marriage was being quietly discussed? A-Yes sir,I heard of it.
534 Q-You heard and found out that it was being quietly talked over? A-Well now I don't know whether my information was gained from talking with women,or from reading the papers or books or something of that kind
535 Q-Well the fact i s you heard of it? A-Yes sir,I heard something about it.
536 Q-You heard of the secret wife system of Dr John C. Bennett too about that time did you not? A-Yes sir.
537 Q-Did the church as a church,claim that there was no such a system in the church at that time. A-I can't say,for I don't know what the church claimed.
538 Q-Were you not a member of the Ladies Relief Society at that time? A-I can't say. I don't remember that I was.
539 Q-Then you were not a member of the Ladies Relief Society at Nauvoo at that time? A-I say I don't remember whether i was o r was not.
540 Q-You do remember of John C. Bennett's secret wife system"? A-Yes sir,I recollect hearing of it.
541 Q- And you do not know whether the church at that time made any declaration on the secret wife system or not? A-No sir. I don't remember anything about that.
542 Q-Or marriage of any kind? A-Oh I suppose they claimed to be,-

A ~~continuing~~ cross-examination

to have marriage in the church. I suppose it was not necessary to make any declaration on that.

543 Q-Well don't you know that they published through the church paper at that time,-the Times & Seasons the statement,-a statement denouncing the secret wife marriage in 1842? A-No sir I don't remember that.

544 Q-You don't remember that? A-No sir.

545 Q-And you don't recollect whether or not you belonged to the Ladies Relief Society? A-No sir.

546 Q-Well you have read the section on marriage in the book of Doctrine and Covenants have you not? A-Yes sir.

547 Q-Now don't you know that ~~the church in Nauvoo~~ in 1842 the church ~~at the time~~ in Nauvoo disclaimed any other or different form of marriage that that contained in the book of Doctrine and Covenants? A-No sir.

548 Q-Do you swear that you do not know that to have been the position of the church on the question of marriage in 1842? A-I do.

549 Q-You don't know anything about that? A-I say I don't remember. I do not know that I understand your question properly to answer it fully,but if I understand your question properly that is my answer.

550 Q-Well what I mean is this Mrs Young,-don't you know that the church through its principle officers published a declaration 1852,-in 1842 I mean,-denying there was any such a system practiced in the church as secret or plural marriage? A-No sir.

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial and for the reason that it does not call for the best evidence.

A-No sir,I don't remember anything of the kind.

551 Q-You knew that in 1843 the book of Doctrine and Covenants prohibited a man from having more than one wife at a time did you not? A-Well I don't know that I did.

552 Q-You knew the section on marriage that was in the book of Doctrine and Covenants did you not? A-Well that can be explained I suppose.

553 Q-Well you know it was there did you not,and you knew that it was too,at that time,didn't you? A-Well I say that can be explained I suppose.

554 Q-I am not asking you for an explanation of it,-I ask you if you did not know that the section on marriage was there,and you knew what it contained,-you knew what it was as it was printed in that book of Doctrine and Covenants? A-Yes sir,at that time I did.

555 Q-Still you violated what you knew to be the church law,and married a man whom you knew had more than one wife? A-Yes sir,-well I did not know that either,-

556 Q-You married Joseph Smith? A-Yes sir.

557 Q-And you knew at the time you married him that he had a wife named Emma? A-Yes sir, I knew that too, but if Joseph Smith had one revelation he could have others too. He had a revelation permitting,-

558 Q-Well never mind about the revelation he had,-You say you knew that Joseph Smith had a wife named Emma at that time? A-Yes sir I knew that.

559 Q-And still in the face of that knowledge,-of the knowledge of what the law of the church was on the question of marriage as printed in the Book of Doctrine and Covenants at that time,and the further knowledge that he had a wife living,you married him?

A-Yes sir.
560 Q-Well now has the church adopted any other rule of action or practice in regard to marriage than that found in the book of doctrine and covenants? A-No sir.
561 Q-You never heard it proclaimed as the church law? A-No sir, I don't remember that I did.
562 Q-I remember,-I mean this polygamous revelation in Nauvoo,-do you remember of hearing of its ever being brought before the church in any manner, or do you know of it? A-No sir.
563 Q-I mean at any time before the death of Joseph Smith or after his death while the church was at Nauvoo? A-No sir.
564 Q-But you did after you came here to Salt Lake City hear or know of the revelation on polygamy being brought before the church here for adoption? A-Yes sir, I suppose I did, but I don't remember of any particular time of that being done.
565 Q-Well I am not asking you for the particular time,-

I am asking you if you remember the fact? A-Yes sir, I heard something about it.
566 Q-You never saw the revelation on polygamy? until after you came here? A-I can't say.
567 Q-Well what is your best impression or recollection about that? A-I don't recollect whether I ever did or not.
568 Q-Well what is your best recollection about it? A-I saw it after I came here.
569 Q-You saw it after you came here? A-Yes sir.
570 Q-Well did you see it before you came here? A-I might
571 Q-Well do you say you did? A-No sir, I do not say I did.
572 Q-Do you say it was ever written or printed or publis-hed in any form whatever, before you came here to Salt Lake City? A-I don't know.
573 Q-What was the name of the church paper,-the official church paper when you were at Nauvoo, Illinois? A-

Well there was the "Nauvoo Neighbour", that was one paper.
574 Q-I mean the church paper,-the paper published by the church? A-The "Times & Seasons", was one paper.
575 Q-Was that a church paper? A-I understood it to be.
576 Q-Was there any other church paper published there ~~xxxxxxxxx~~ other than that?- A-I don't remember if there was. I think not though. There might have been, but I don't remember.
577 Q-I will get you to look at this book and see if you can identify that as the "Times & Seasons"? A-It looks like it, but I haven't seen any bound like it (here witness gets her spectacles and puts them on, and answers) Yes sir I should call that the Times &

Seasons, so far as I know.
578 Q-Where was that published? A-At Nauvoo.
579 Q-What do you say it is? A-It is the Times & Seasons all right but I was in a little doubt about it at first for I never saw any bound like that before. It is the Times & Seasons though all right.
580 Q-I am going to read from the Times & Seasons publish-ed at the city of Nauvoo on Saturday, October 1st 1842, on page 959.

Counsel for the defendants objects to the counsel for the plaintiff reading from the book referred to for the reason "that the books from which counsel for the plaintiff proposes to read an extract had not been properly identified by a competent witness", and because it is irrelevant

and immeterial, to any of the issues in this case,and is not cross examination.

582 Q-I will read an article taken from the book of Doctrine and Covenants of the church of Jesus Christ of Latter Day Saints,on marriage.

Counsel for the defendants objects to the question asked the witness for the reasons and on the grounds as above set forth,and for the further reason "that objection is made to the article proposed to be read on the ground that the book from which it purports to be taken is the best evidence as to what the doctrine of what the church was".

583 Q-The article I propose to read being the same identical article as the section on marriage in the 1835 edition of the book of Doctrine and Covenants,marked exhibit "E" heretofore introduced as evidence.

By Mr Cabell,-"We make the same objection to that,and also on the further ground that there is no evidence here to show that it is the same".

By Mr Kelley,-"The article herein set out, and which we propose to read to the witness being the same identical article in the book of Doctrine and covenants above specified,word for word,-the article is as follows,-"(It is headed) From the book of Doctrine and Covenants of the Church of Jesus Christ of Latter Day Saints. On marriage.

According to the custom of all civilized nations,marriage is regulated by laws and ceremonies;therefore we believe that all marriages in this church of Jesus Christ of Latter Day Saints,should be solemnized in a public meeting or feast prepared for that purpose;and that the solemnization should be performed by a presiding high priest,high priest,bishop,elder or priest,not even prohibiting those persons who are desirous to get married,of being married by other authority. We believe that it is not right to prohibit members of this church from marrying out of the church,if it be their determination so to do,but such persons will be considered weak in the faith of our Lord and Savior Jesus Christ.

Marriage should be celebrated with prayer and thanksgiving,and at the solemnization the persons to be married, standing together,the man on the right,and the woman,on the left,shall be addressed by the person officiating, as he shall be directed by the Holy Spirit;and if there be no legal objections,he shall say, calling each by their names;"You both mutually agree to be each others companion,husband and wife,observing the legal rights belonging to this condition;that is keeping yourselves wholly for each other,and from all others during your lives". And when they have answered"yes"he shall pronounce them "husband and wife"in the name of the Lord Jesus Christ, and by virtue of the laws of the country and authority vested in him;"may God add his blessings,and keep you to fulfill your covenants,from henceforth,and for ever. Amen"

The clerk of every church should keep a record of all marriages,solemnized in his church.

All legal contracts of marriage made before a person is baptized into this church,should be held sacred and fulfilled,. In as much as this church of Christ has been reproached with the crime of fornication and polygamy;we declare that we believe that one man should have but one wife and one woman but one husband,except in case of death when either is at liberty to marry again. It is not right to persuade a woman to be baptized contrary to the will of her husband,neither is it lawful to influence her to leave her husband. All children are bound by law to

A publication

obey their parents;and to influence them to embrace any religious faith,or be baptized,or leave their parents without their consent is inlawful and unjust. We believe that husbands,parents and masters,who exercise control over their wives,children and servants,and prevent them from embracing the truth,will have to answer for that sin" Now that is the section on marriage and I will give you the editorial comments on it," We have given the above rule of marriage as the only one practiced in this church, to show that Dr J.C. Bennett's "secret wife system" is a matter of his own manufacture;and further to disabuse the public ear,and shew that the said Bennett,and his misanthropic friend Origen Bachelor,are perpetrating a foul and infamous slander upon an innocent people,and need but to be known to be hated and despised. In support of this we present the following certificate. Now I have read that with the editorial comment for the purpose of refreshing your recollection,as you say you have no remembrance of it,and I will ask you now if you have any recollection of those certificates? A-No sir I do not recollect them.

583 Q-Do you recollect that language I have just read to you as something that you have just read before,-something that you have read at any time past? A-I don't know as I do.

584 Q-Don't you recollect that that article was published in the church paper in 1842 when you were in Nauvoo? A-No sir I do not remember it.

585 Q-Do you recollect the controversy that came up at that time about Dr J.C. Bennett's secret wife system? A-I remember something about it,but I don't think what he taught was what Joseph taught. I don't think what he practiced was what Joseph taught at all

586 Q-Well that is not what I am asking you,-I asked you if you remembered the flurry that was up about that time about John C. Bennetts secret wife system,-I simply asked you if you remember of that without reference to what he taught? A-I say I remember something about it.

587 Q-Was it during that time that you had heard of the secret wife doctrine that you heard those rumors floating around about celestial marriage that you spoke of? A-I don't remember whether I had heard of it at that time or not.

588 Q-You don't recollect about that? A-No sir.

589 Q-Well was it during this time that you had the conversations with Joseph Smith that you have related? A-I don't know. I don't know whether it was after that or not. I can't remember how that was.

590 Q-You don't remember whether it was after that or not? A-No sir.

591 Q-Now I will read to you this certificate for the purpose of refreshing your recollection,-"We the undersigned members of the church of Jesus Christ of Latter Day Saints,and residents of the city of Nauvoo,persons or families do hereby certify and declare that we know of no other rule or system of marriage,than the one published from the book of Doctrine and Covenants,and we give this certificate to show that Dr J.C. Bennetts "secret wife system" is a creature of his own make,and we know of no such a society in this place,nor never did". That is signed by,-"S.Bennett,George Miller,Alphous Cutler,Reynolds Cahoon,Wilson Law,W.Woodruf,H.K. Whitney,Albert Petty,Elias H. Higbee,John Taylor, E Robinson,and Aaron Johnson". Now was that not published in your church paper there at Nauvoo? A-I don't remember.

592 Q-After reading it to you you do not recollect whether it was published or not? A-No sir I don't recollect about it.
593 Q-Well do you say it was not published? A-No sir,-it was published I suppose if it is in there.
594 Q-Well if published as I have read it,was it true? A-I don't know,-they might not know anything of it at the time.
595 Q-You knew Newel K. Whitney at that time did you not? A-Yes sir.
596 Q-You were well acquainted with him? A-Yes sir,-pretty well.
597 Q-He was an officer in the church at that time? A-Yes sir.
598 Q-He was the bishop of the church wasn't he? A-Yes sir.
599 Q-You also knew Albert Petty? A-No sir.
600 Q-But you did know E. Robinson? A-What Robinson?
601 Q-It is "E Robinson" here? A-Ebenezer Robinson?
602 Q-You will suppose that is the name? A-Yes sir I knew him.
603 Q-He was one of the publishers of the paper there,-the Times and Seasons wasn't he?,at that time? A-He was at one time.
604 Q-You know Woodruff? A-Yes sir.
605 Q-It was Wilford Woodruff? A-Yes sir.
606 Q-The present President of the church out here in this section of country? A-Yes sir.
607 Q-You knew him at that time? A-Yes sir. Well no I did not either,I had heard of him,but I was not acquainted with him at that time.
608 Q-Well he was a member of the Twelve wasn't he? A-Yes sir.
609 Q-You knew John Taylor at that time didn't you? A-Yes sir,by sight I did.
610 Q-You also knew Elias Higbee? A-Yes sir.
611 Q-And Alpheus Cutler,-you knew him also? A-Yes sir, but I was not personally acquainted with him,but I knew him by sight.
612 Q-And Wilson Law,-you knew him? A-Yes sir.
613 Q-And Reynolds Cahoon? A-Yes sir.
614 Q-And George Miller? A-Yes sir,-I know all of them either personally or by sight I think.
615 Q-Well you knew George Miller? A-Yes sir.
616 Q-And S. Bennett? A-Yes sir,I knew him too.
617 Q-Were not all of these men whose names are signed to that declaration,prominent men in the church at that time? A-Yes sir,some of them were.
618 Q-Well John Taylor and Woodruf and Higbee and Cahoon and Cutler and Whitney,were all prominent members of the church,were they not? A-Yes sir,some of those were prominent men there.
619 Q-Whitney was a bishop wasn't he? A-Yes sir,he was a prominent man.
620 Q-And Taylor and Woodruf were members of the Twelve? Were they not? A-Yes sir.
621 Q-They were prominent men too were they not? A-Yes sir,but I did not know much about Cahoon. I did not know about him only by hearsay.
622 Q-Well Taylor and Woodruf were members of the Twelve ,and they are the only ones I was talking about, or asking you about? A-Yes sir.
623 Q-And Robinson was one of the publishers of the church paper? A-Yes sir I believe he was.
624 Q-What about Aaron Johnson,-did you know him? A-I did by sight. That was all.

625 Q-He was one of the prominent men in the church?
A-I don't know whether he was or not.
626 Q-What position, if any, did he hold in the church?
A-I don't know that he was.
627 Q-Now if you had learned in 1842 at any time, anything about a secret wife system, or heard it discussed in any manner, would not the publication of this certificate I have read, together with the names on it, of the members of your own church with whom you were acquainted, have brought it to your attention? A-Yes sir, if I had ever read it, but I don't remember that I ever read it.
628 Q-You don't remember that you ever read it? A-No sir
629 Q-You read the Times paper did you not? A-Well some of them I suppose I did. I don't know that I read all that was in them, or everything that was printed, but some of them I did read.
630 Q-Will let me further refresh your recollection by reading this certificate,-"We the undersigned of the Nauvoo Relief Society, and married females, do certify and declare that we know of no system of spiritual wifery being practiced in the church of Jesus Christ of Latter Day Saints save the one contained in the Book of Doctrine and Covenants, and we give this certificate to the world to show that the J.C. Lawyer's secret wife system is a disclosure of his own sin". That is signed by the following names,-" Emma President, Elizabeth Ann Whitney, Counsellor, Sarah M. Cleveland, Counsellor, Eliza R. Snow Secretary, Mary C. Miller, Lois Butler, Thirza Cahoon, Ann Hunter, Jane Law, Sophia R. Marks, Polly Z. Johnson, Abigail Works, Catherine Petty, Sarah Higbee, Phebe Woodruff, Lucera Taylor, Sarah Pulsipher, Rosannah Cherry, and Angeline Robinson". Now that is the names of the signers to that document. Now that is signed

Q-Emma Smith as its President you know that did you not? A-Yes sir.
631 Q-She was the wife of Joseph Smith, the prophet?
A-Yes sir.
632 Q-And she was the president of the ladies relief society there in Nauvoo? A-Yes sir, I believe she was
633 Q-Well then was Elizabeth Ann Whitney, the Counsellor, your mother? A-Yes sir.
634 A-She was a counsellor to the president at that time I believe so.
635 Q-There was Sarah M. Cleveland,-you knew her also? A-Yes sir, I knew her.
636 Q-Eliza R. Snow, Secretary, did you know her too? A-Yes sir.
637 Q-She was the secretary? A-Yes sir.
638 Q-Were you all acquainted with her? A-Yes sir, I knew her very well.
639 Q-These four were all prominent women in the Ladies Relief Society? A-Yes sir
640 Q-Now here is Mary C. Miller,-did you know her? A-No sir.
641 Q-Lois Butler,-did you know her? A-No sir I did not know her at all. I did not know either of them. I don't remember Lois Butler at all.
642 Q-Thirza Cahoon,-did you know her? A-No sir.
643 Q-Ann Hunter,-did you know her? A-~~No sir~~. Well, I have seen her.
644 Q-Jane Law?- A-Yes sir I know her.
645 Q-She was the wife of James Law? A-Yes sir. No sir that is a mistake it was William Law.
646 Q-Sophia R. Marks,-did you know her? A-Well I think I did, but not very well.

647 Q-Polly W. Johnson,-did you know her? A-No sir.
648 Q-Abigal Works,-did you know her? A-No sir.
649 Q-What about Catherine Petty? A-I didn't know her either.
650 Q-Well there was Phebe Woodruf,-you knew her didn't you? A-Yes sir.
651 Q-Were you well acquainted with her? A-Yes sir pretty well.
652 Q-She was the wife of President Woodruf here wasn't she? A-Yes sir.
653 Q-Is she livin, here now? A-No sir. She is dead.
654 Q-Leonora Taylor? A-Yes sir.
655 Q-You knew her? A,Yes sir.
656 Q-She was the wife of John Taylor? A-Yes sir.
657 Q-Is she living? A-No sir.
658 Q-Did you know Sarah Gillman? A-No sir.
659 Q-Or Rosannah Marks? A-No sir.
660 Q-You did not know her? A-No sir.
~~661 Q-You did not know her? A-No sir.~~
661 Q-Did you know the President of the stake there at Nauvoo? A-Yes sir.
662 Q-What was his name? A-It was Marks at one time.
663 Q-William Marks? A-Yes sir.
664 Q-Well that is the one I refer to? A-Yes sir,I knew him.
665 Q-Did you know what his wifes name was? A-No sir. I have seen her,but I didn't know what her name was
666 Q-Do you know whether or not it was Rosannah Marks? A-No sir.
667 Q-You know the President of the stake's name was William Marks,but you don't know what his wife's name was? A-No sir,I don't know what her name was, but I know her,-that is I know who she was when I could see her.
668 Q-Did you know Angeline Robinson? A-I think I knew her. I think she was the wife of Ebenezer Robinson, and if she was I knew her.
669 Q-Were not all these women whose names I have read prominent women there in the church in Nauvoo,in the church work? A-Yes sir,I suppose they were. As far as I knew they were,-some of them I knew were,but as I did not know the others,or cannot remember them,I cannot say. I cannot say as to all of them.
670 Q-And still you want to go on record as saying that after this statement made by so many prominent women in the work of the church there at Nauvoo,and members of the church,whose husbands also in a great many instances occupied prominent offices and important offices in the government of the church,-that you do not know anything about the practice being denounced of polygamy? A-I don't say that,-I do not say that it was not denounced I say that I don't remember anything about it,but it probably was. I have no doubt but that it was published just as it is there and at that time too.

671 Q-And do still do you say not withstanding this public,and unqualified denunciation of poly gamy,that at this very time you and Joseph Smith were not only secretly talking polygamy but were practicing it? A-Yes sir.
672 Q-You were? A-Yes sir. I don't know that it was right at that time,but it was shortly after that.
673 Q-You said awhile ago that you talked it over in 1842 A-Yes sir.
674 Q-And this was in '42? A-Well I have said what he said to me,but he did not say anything to me about polygamy at that time. That was before the time that he said anything about polygamy.

675 Q-Well he talked over the secret wife system with you,didn't he? A-What?

676 Q-He talked secret wife to you in 1842 didn't he? A-I don't know that he said about secret wives or anything of the kind in 1842. I don't know that he said a word about it in 1842. I have told you that he came to me first one day in his house,when he and I were together,and he said that he had something to tell me if I could keep a secret,and he would tell me if he could get an opportunity,and he did not say anything about what it was he was going to tell me that time;and then after that some time,-I don't know how long,-he met me again and spoke to me about it,but I did not know what he meant then until some time afterwards. That was the second time he spoke to me about it,and that was the time that he told me he would write me a letter,and I told him that I did not want him to write me a letter,-that was in '42 I think,-I could not be positive but I think it was,and there was nothing said about secret wives at any of those times.

677 Q-Well did you not say that before he spoke to you the second time and spoke about writing the letter to you,that you found out outside what it was, that he was going to say or write to you? A-Yes sir I did not say I found out what it was. I said I thought I knew what it was,but it was all mixed up with me

678 Q-Then he never said anything to you about polygamy? A-Not at that time.

679 Q-He never spoke anything to you after that about polygamy? A-No sir,for it was not called polygamy at that time.

680 Q-Well what was it called,-was it called"celestial"? A-It was called plural marriage,or nauvoo

681 Q-It was also called "celestial marriage",wasn't it? A-Yes sir.

682 Q-Is that not what it was called,-"celestial marriage or"nauvoo"? A-Yes sir.

683 Q-It was not called "polygamous marriage",at that time? A-No sir. ~~xxxxxxxxxxxxxxxxx~~ or. It was not that I remember of.

684 Q-Was it called the"plural wife"system? A-Yes sir.

685 Q-I ask that the term he employed in speaking to you about it? A-I don't remember all that he did say or say. I can't remember just what he said,-that is impossible. It was ~~called~~ "celestial marriage", or "plural marriage"or some thing of that kind that he called it.

686 Q-Well now as a fact,don't you know that there was a revelation on sealing? A-Yes sir.

687 Q-You remember that? A-Yes sir.

688 Q-And don't you remember that that is what he was talking to you about,and not about the revelation on plural marriage or polygamy? A-Well I know I then he said it was all the same.

689 Q-Well now don't you know they are two separate and distinct documents ? A-Well that may be,but the principle is the same and you may called it plural marriage or polygamy or whatever you please and that don't make a bit of difference for the principle is the same ~~xxxxxxxx~~ whatever name it is called by.

690 Q-Who taught you that the two revelations were the same? A-Well I don't know that any body taught me.

691 Q-Were you not taught that after you came here? A-Taught what?

692 Q-Taught that the principles were the same? A-I expect I was but I don't remember.

693 Q-Brigham Young taught you they were the same? A-What,-the two revelations?

694 Q-Yes madam? A-I don't know anything about two revelations on that. I don't know anything ~~xxxxxx~~ but ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ ~~xxx~~ about one revelation on ~~xxxxxxx~~. plural marriage.

695 Q-Don't you know there is one on sealing,that permits a woman to be seamed to her husband for eternity? A-Well I don't know about that for I had no husband about that time,and so I can't say I know there was a revelation on sealing.

696 Q-You say you know there was a revelation on sealing? A-Yes sir.

697 Q-How was that not what Joseph Smith was ~~xx~~ talking about when he spoke to you,-was it not about this revelation on sealing?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not cross examination,and on the further ground that it is a repetition of rather already gone over.

698 Q-"Is not Joseph Smith talking to you about that revelation on sealing? A-No sir.

699 Q-How do you know he was not? A-I know it.

700 Q-"Well how do you know it? A-Well I guess I have a bit of common sense about some things.

701 Q-How do you say that he talked to you about a revelation on plural marriage at the time he talked to you on the 4th of March 1843 when you were first married? A-What is that?

702 Q-I asked you if it is not a fact that Joseph Smith talked to you ~~xxxxx~~ at the time you were married on the 4th of March 1843,about a revelation on plural marriage? A-Yes sir.

703 Q-He talked to you at that time about the revelation on plural marriage? A-Yes sir.

704 Q-Not the revelation on sealing,-is that what I understand you to say? A-Yes sir.

705 Q-And you are positive of that? A-Yes sir.

706 Q-Nor then had the revelation on plural marriage been given at that time? A-I don't think that it had been publicly given out.

707 Q-Was it been given to Joseph Smith at all? A-He had a revelation,but I don't know that it was ever published or written at that time,but he had it.

708 Q-Well was that not the one on sealing? A-No sir.

709 Q-You say it was not? A-I guess not,but I don't know ,-I don't think it was?.

710 Q-How do you know it was not the revelation on sealing,-did you ever see it? A-On sealing?

711 Q-Yes madam? A-I don't know that I ever did.

712 Q-Did you ever see the one on polygamy until after you came here to Salt Lake City? A-I don't know that I did.

713 Q-Did that revelation permit any body but Joseph Smith to perform the ceremony of sealing? A-I believe not.

714 Q-You believe not? A-Yes sir. Not without his permission.

715 Q-Does it say that any one could perform it with his permission? A-I don't know that it does.

716 Q-Don't you know it prohibits every body but Joseph Smith from performing the ceremony of sealing? A-I think it does but I don't know.

717 Q-Did the one on sealing prohibit over body but him? A-Well I don't know,-I don't think it did.

718 Q-Then you were married to Joseph Smith on or under the revelation on sealing,were you not? A-No sir.

719 Q-You swear positively you were not? A-No sir.

720 Q-You swear that you were not married under the revelation on

sealing, to Joseph Smith? A-Yes sir.

721 Q-And that you were married to him under the revelation on xxxxxxxx plural marriage? A-Yes sir.

722 Q-Under the polygamy revelation,-so called? A-Yes sir.

723 Q-The first time you were married to him was in March,-I believe you stated about the 4th of March 1843? A-Yes sir,some where about there.

724 Q-Now I would like for you to explain how you were married to Joseph Smith under the provisions of a revelation on polygamy or plural marriage in March 1843,when the church you belong to claims the revelation xx was not given to Joseph Smith until some time in July 1843?,-you were married in March,and the revelation was not received until some time in July,-please explain how that could be? A-Well he had received before that.

725 Q-What was received before that? A-The revelation etc.

726 Q-How do you know it was? A-Well he told me he had a revelation.

727 Q-He had not received this one had he? A-Well I dont know anything about that,but he told me he had this one then,-I know that.

728 Q-But that was the revelation on sealing? A-No sir, it was the revelation on plural marriage.

729 Q-You swear it was the one on plural marriage? A-Yes sir. It was on plural marriage.

730 Q- Or do you know it was the revelation on plural marriage? A-He told meso.

731 Q-Who told you so? A-Joseph Smith told me so.

732 Q-Well now was it not under this one that was given in July 1843 that you were married under? A-No sir

733 Q-It was not this one? A-I think no.

734 Q-Then it was under another one? A-Yes sir It must have been,-he told me he had one on that,and it was before July too.

735 Q-Then you were not married to Joseph Smith un xx xx this revelation that was given him on the 12th day of July 1843? A-No sir I don't think I was. I don't see how I could be married in March under a revelation given in the July following.

736 Q-I don't see how you could be either,and that is what I am trying to get you to say. A-Well I don't know whether it was the same or not.

737 Q-This section one hundred and thirty two published in the book of doctrine and Covenants issued by the Church xxxxxxxxxxxxxx here in Salt Lake City reads,- "revelation on the eternity of the marriage covenant including plurality of wives,given through Joseph the Seer,in Nauvoo,Hancock County,Illinois,July 12th 1843 Now you were not married under that,for you could not have been married to Joseph Smith under something that was given to him three months or over after you were married to him? A-No sir,I should think not.

738 Q-Then if you were married to him,it must have been x under some other law,and not this law? A-Well it was not under any law,-it was under a revelation on the same subject.

739 Q-Don't you know that he had a revelation on sealing that did not permit anything else but sealing for time and eternity? A-A revelation on that?

740 Q-Yes ma'am? A-No sir,I don't remember anything being talked about that revelation.

741 Q-And you were not sealed for time and eternity under that revelation? A-I was sealed to him for time and eternity.

742 Q-Now after your marriage did Emma Smith call you the wife of Joseph Smith? A-I don't know that she did. I don't remember that she xxx ever did.

743 Q-You have no recollection of her ever addressing you as his wife? A-No sir.

744 Q-Did she ever recognize you as his wife? A-After [illegible] she NEVER did, not.

745 Q-She never recognized you as his wife at any time or place? A-No sir, I think not.

746 Q-Did she ever claim that you were his wife? A-No sir.

747 Q-Did you ever live with Joseph Smith after you were married to him after the first night that you roomed together? A-No sir. Emma knew that we were married to him, but had never allowed us to live with him

748 Q-Do you make that statement in the face of the declaration that was made in 1875 in which she said she never, [illegible] to my body to Joseph? A-Yes sir, I do.

749 Q-And you make that declaration here at this time in the presence of a [illegible] signed by the President of [illegible] that at the very time you were living, cohabiting with Joseph [illegible] this matter, that there was no such a [illegible] in the church? A-I make the statement here that I was married to Joseph [illegible].

750 Q-And you also make the declaration that you roomed with him on the night of the 11th of May 1843? A-No sir, I said it was in May, that was the day that I was married to him the second time, but when you refer to that I see that I was mistaken and I [illegible] that date now, although it always [illegible] that was the time.

751 Q-Well do you make the declaration now that you ever [illegible] at any time? A-Yes sir.

752 Q-Do you make the declaration that you ever slept with him in the same bed? A-Yes sir.

753 Q-How many nights? A-One.

754 Q-Only one night? A-Yes sir.

755 Q-[illegible] only sleep with him in the same bed one night? A-Yes sir.

756 Q-[illegible] ever have sexual intercourse with xxx Joseph Smith? A-Yes sir.

757 Q-How many nights ?X A-I could not tell you.

758 Q-Do you make the declaration that you never slept with him some night? A-Yes sir.

759 Q-And that was the only time and place that you ever [illegible] with him? A-No sir.

760 Q-Were you in bed with him at any time before that time? A-Before what time?

761 Q-Before you were married? A-No sir, not before I was married to him I never was.

762 Q-Do you mean that you were in bed with him after [illegible] of March 1843? A-Yes sir, but that was after I was first married to him.

763 Q-And that was before this revelation on plural marriage was given wasn't it? -I suppose it was.

764 Q-Now after your attention is called to the time this revelation was given on July 12th 1843, do you still insist that you were married under this revelation? A-No, I don't. I don't insist upon any such a thing.

765 Q-Will you be kind enough to tell me under what revelation you were married then? A-I don't know what revelation it was,

but he told me himself in so many words that he had
revelation, and that was the revelation we were
[illegible] under. I just took his word for it, and I
[illegible] it.

765 Q-Did you [illegible] it? A-No sir I did not see it. I
[illegible] it was written at that time.

767 Q-[illegible] church ever seen it? A-I don't think it,
[illegible]

768 Q-You have not seen it yourself and you don't think
[illegible] seen it? A-No sir, I did not see it,
[illegible] anything about this [illegible].

769 Q-[illegible] been presented to the church [illegible],
[illegible] A-I don't think it had.

770 Q-[illegible] been published [illegible] it? A-[illegible],
[illegible] but [illegible] revelation [illegible]
[illegible] Q-[illegible] told you that [illegible] and [illegible]
[illegible] the letter to me.

771 Q-[illegible] of the church [illegible] of-
[illegible] to have another wife while [illegible] wife
[illegible]? A-[illegible].

772 Q-[illegible] A-[illegible]
[illegible] revelation [illegible]
[illegible] revelation [illegible]

773 Q-[illegible] A-[illegible] written
[illegible] not, even [illegible] years re
[illegible]

774 Q-[illegible]

775 Q-[illegible] you married him in [illegible]? A-Yes sir.

776 Q-[illegible] A-[illegible] law of
[illegible] A-[illegible] in March 1845 [illegible] to
[illegible] and I know what was done. That is all I know
[illegible] it.

777 Q-Did you ever see any of the [illegible] of the [illegible] that
[illegible] it? A-No sir.

778 Q-[illegible] you at that time? A-[illegible].

779 Q-[illegible] Joseph with [illegible] than
[illegible] law was [illegible]
[illegible]? A-Yes sir, I think the law was revealed
[illegible].

780 Q-[illegible] than the law which had [illegible] A-Well
I [illegible] instance you could consider it [illegible] or
not.

781 Q-[illegible] know what you say about it? A-I
don't say anything about it.

782 Q-[illegible] not Jesus Christ higher than the law?
A-I don't know anything about it.

783 Q-Don't you know that Jesus claimed he was subject
to the law? A-I suppose so.

784 Q-And did not Joseph claim that he was subject to
the law. He never claimed that he was greater than
the law, but claimed that he was subject to it, don't
you? A-I don't know what he did.

785 Q-So I understand you as saying in reference
to your belief, that in the face of the law of the church
that prohibited plural marriage, Joseph married
you? A-All I know that he married me. I know that.

786 Q-Did he do it that in the face of the law of the
church which prohibited plural marriage,-he did that
in the face of that law, or any other law, so far as
the [illegible] law of the church was concerned?

A-I don't know anything about that only what he told me, and I know what was done. He told me that he had a revelation permitting it, and I thought it was right or I would not have done it.

787 Q-Now Mrs Young, don't you know that you were just simple sealed to him for eternity? Don't you know that that was all that was done Mrs Young,-that you were simply sealed to him for eternity? A-I know that I was sealed to him for time and eternity.

788 Q-How could you be sealed to him for time? A-Marry wife.

789 Q-How could you marry Brigham Young, for time? A-Well my husband was dead when I did that. I was not sealed to him for eternity,-it was just for time.

790 Q-Well the fact that he was dead did not release you for time,-you married him in the first instance for time and eternity, and the fact that he was dead did not release you for time did it? A-You were married to Joseph Smith for time and all eternity? A-Yes sir

791 Q-Then how could you marry again? A-Well I did marry again.

792 Q-I know that, but what I want to know is how you could do it, even assuming for the sake of argument that this revelation,-that this polygamy revelation is true? A-Well I don't know only that I did marry again.

793 Q-Then you violated the law of the church again did you not? A-Well if you want to have it that way I have no objection, for you can have it just as you like.

794 Q-Well what I want to get at is, if you were sealed to Joseph Smith for time, by marrying Brigham Young, you violated your obligation, did you not? A-No sir.

795 Q-You did not? A-No sir, I don't consider it so at all.

796 Q-Then you were not sealed to them during the natural life of either of them? A-Yes sir.

797- Q-You were? A-Yes sir.

798 Q-To which one? A-To both of them.

799 Q-What,-was that the words that were used? A-Do you mean that I was sealed to both of them during the time that they were both livin?

800 Q-I mean,-was you sealed to Joseph Smith during the term of your natural life? A-Yes sir.

801 Q-And you were also sealed to Brigham Young, during the term of your natural life? A-Yes sir,-after Joseph's death I was. I was not sealed to Brigham Young until after the death of Joseph's death,but during the term I was sealed to him for my life.

802 Q-Did the term of your natural life cease when you married Brigham Young? A-Yes sir,for my natural life.

803 Q-I asked you if your natural life ceased at the time that you married Brigham Young? A-My natural life?

804 Q-Yes Ma'am? A-I suppose so.

805 Q-Well you were sealed to Joseph Smith during the term of your natural life? A-Yes sir.

806 Q-Was there any law of the church that permitted you to be sealed to a man during the term of his natural life, and when he died that permitted you to be again sealed to another man during the term of your natural life? A-I suppose there was.

807 Q-Was not the marriage ceremony between you this, -that you were both sealed to each other during the term of your natural lives,

and there wasnothing said about that? A-No sir.

808 Q-Well if it was not that,what was it? A-It was for time and eternity both.

809 Q-That was the ceremony at the time you married Joseph Smith? A-Yes sir.

810 Q-And yet within four months of the death of Joseph Smith,although you were married to-him for time and eternity,you married Brigham Young? A-Yes sir.

811 Q-You recollect distinctly that it was both time and eternity? A-Yes sir.

812 Q-And there was nothing said about your "natural lives"? A-I don't remember that there was anything said about natural lives.

813 Q-Was it for time and eternity? A-Yes sir.

814 Q-Well if you were sealed for all time how could you marry again? A-Well I did marry again.

815 Q-You married again whether there was any law for it or not? A-Yes sir,-I married again,-that is true.

816 Q-How did you not get that declaration about"time and eternity" from this revelation alleged to have been given in 1843 on July 12th? A-No sir I did not.

817 Q-Did you said there was a revelation on the time? A-Yes sir.

818 Q-Do you say that that declaration in reference to "time and eternity" was in the one on sealing? A-It was in the ceremony that was performed when I was married. I don't know that was in the revelation,but I know it was in the ceremony when I was married.

819 Q-What obligation did Joseph Smith take when you were married to him? A-I don't know that I understand that question.

820 Q-Well there was a marriage ceremony performed was there not at the time that you were married to Joseph Smith? A-There was.

821- Q-You agreed to certain things did you not? A-Yes sir.

822 Q-And he also agreed to certain things didn't he? A-Yes sir.

823 Q-What did you agree to? A-Well we agreed to be each others companions,-husband and wife?

824 Q-Keeping your selves for each other,and wholly from all others? A-Well I did.

825 Q-You say you agreed to that? A-Yes sir.

826 Q-That is what you agreed to on your part? A-Yes sir

827 Q-Well didn't he agree to the same thing? A-No sir I think not,for he could have other wives.

828 Q-Then on your part you say you agreed to keep your self for him and wholly from all others,during your natural life,didn't you? A-Yes sir.

829 Q-And he agreed to care for you during the term of your natural life,didn't he? A-Yes sir,while he lived any way,-but I don't remember the ceremony that was used very well or what was said,-I have only a dim of a general recollection of it now.

830 Q-Did he not take an obligation to keep himself wholly from all others during the term of his natural life? A-No sir,of course not.

831 Q-Well what did he say? A-I don't remember.

832 Q-What questions were asked him? A-I don't remember. I don't remember the ceremony I told you.

833 Q-You don't remember anything about the ceremony? A-Not the words.

834 Q-Was there a record made of the marriage? A-I think so.

835 Q-Who made it? A-I don't remember that.

836 Q-You do not recollect who the clerk was? A-No sir.
837 Q-As a matter of fact you don't remember that there was a clerk there, or whether there was any record kept, or made of the marriage.? A-No sir, but I think there was.
838 Q-Was the clerk of the branch there? A-I don't remember.
839 Q-That is the first time you were married to Joseph Smith? A-I said I did not remember.
840 Q-Was the clerk of the branch, the second time you were married to him? A-I don't remember.
841 Q-Now, did any one make a record of the marriage? A-I suppose there was a record of the marriage made, but I don't know it.
842 Q-You never saw one? A-No sir, I never did.
843 Q-And you, yourself, did not keep a record of it? A-No sir, I did not, I am sorry to say.
844 Q-Did you not know that marriages are to be recorded in the county seat of the county in which they are solemnized? A-No sir I did not know anything about that. That marriage could not be, for the reason that the marriages were not made.
845 Q-The church did not keep anything about this do it? A-[illegible] that I did know about it.
846 Q-Was there a half dozen people when you were married to Joseph Smith? A-So far as I know there was not.

I can't say how many there, but there was not many that knew anything about it.
847 Q-Did you not, yourself, our witness, for a time, up the man that married you were all wrong, [illegible]? A-Yes sir that was all, with the exception of Joseph Smith,-he knew of it for she was there and [illegible].
848 Q-Was that all? A-I think so,-I don't know of any body else.
849 Q-Was Mama Lorenzo Smith present? A-Yes sir.
850 Q-Will it be a good thing for it that this man be? A-Yes sir, but he was quite young, and was with [illegible] and did not know anything about these things.
851 Q-Will he be twelve years old when he is? A-Yes sir, I suppose so, but why we could tell [illegible] about it. It is not very likely that they would take children into their confidence in such things of that kind that has being kept secret.
852 Q-Will he be old enough to go to a marriage ceremony in 1843? A-Yes sir, but he was not there.
853 Q-Did not to church with his father did not he? A-He was so.
854 Q-Well don't you know that he did? A-I don't suppose whether he did or did not.
855 Q-Did you ever see him go to church? A-No sir, I don't remember of ever seeing him go to church.
856 Q-With his father I mean? A-No sir, I don't remember ever seeing him go to church at all.
857 Q-Did you ever attend church with Joseph Smith and his wife? A-I don't know that I ever did, but I have been at the same church that they were at. I have been at the same church that they were at, but I don't remember that I ever went specially with them.
858 Q-Joseph went with Emma didn't he? A-I suppose so.
859 Q-He never went with you? A-No sir he never went with me.
860 Q-How many children were born to Joseph Smith, there by Louvoc, aside from those that were born to Emma his wife? A-I don't know anything about that.
861 Q-Do you know of any? A-No sir I don't know of any
862 Q-Were you re-baptized when you came out here? A-Yes sir.
863 Q-Were you baptized after you came here to the Valley? A-Yes sir

864 Q-What was that for? A-What was it for?
865 Q-Yes ma'am? A-Well because we thought it was proper I suppose.
866 Q-Was it not for the purpose,- A-It did not do any body any hurt any way.
867 Q-Was it not for the purpose of baptizing you into the new and everlasting covenant? A-
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper cross examination.
A-I don't remember just what it was,-but it was I think for a renewal of our covenant.
868 Q-Had you broken your covenants? A-No sir.
869 Q-Then why were you baptized again? A-Well it did not hurt us any to be baptized again that I can see. We did not consider that it did us any particular harm, and we thought it might do us some good.
870 Q-The bible teaches that you were not to return to your first works nor do them over again? A-Well I have nothing to do with the doctrines of the bible particularly.
871 Q-You are not going back on the bible are you? A-No sir.
872 Q-Does your errand out here go back on the bible? A-No sir, not that I know anything about.
873 Q-Well were you not baptized again after Brigham's death on the accession of John Taylor to the Presidency? A-I don't think I was.
874 Q-Have you not been baptized three times in all, twice since you came here to Salt Lake and once before? A-Well I don;t remember but what it was three times.
875 Q-Were you not baptized in the reformation? A-Perhaps I was.
876 Q-There was a reformation here at one time, several years ago, was there not? A-Yes sir, there was what was called a reformation.
877 Q-Well that would make three times that you were baptized, if you were in that reformation,-once before you came here to Salt Lake, once after you came, and then again in the reformation? A-Yes sir.
878 Q-Have you not been taught here by President Young, and all the other authorities in the church here, that this revelation on polygamy, was a new covenant?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper cross examination.
A-I never heard any particular teachings about it.
879 Q-You have read it yourself? A-Yes sir, I have read it in the Doctrine and Covenants that is accepted by the church.
880 Q-And the church claims that it is the new covenant? A-What?
881 Q-That this revelation is a new covenant to the church? A-Well I don't know. I don't know about that. I can't discuss religion with you.
882 Q-Well that is what you understand by it, is it not?
Counsel for the defendants objects to the question for the reasons above set forth, and on the further ground that it calls for an opinion of the witness.
883 Q-The church accepts it as a new covenant? A-Yes sir, that the whole church has a new and everlasting covenant.
884 Q-A new and everlasting covenant to the whole church? A-Yes sir.

885 Q-The whole revelation? A-Yes sir.
886 Q-Well then let me read section one hundred and thirty two, paragraph three and four on page four hundred and sixty four,-Therefore prepare thy heart to receive ~~xxxxxxxxxxxxxxxx~~ and obey the instructions, which I am about to give unto you; for all those who have this law revealed unto them must obey the same; For behold I reveal unto you a new and everlasting covenant; and if ye abide not that covenant, then are ye damned; for no one can reject this covenant, and be permitted to enter into my glory."
Now have you been taught that, and so understand this revelation that it is the new and everlasting covenant? A-Yes sir.
887 Q-That is what you believe it is? A-Yes sir.
888 Q-And for that reason you were re-baptized when you first came here to Salt Lake, were you not? A-Well I can't say, for I don't know that it was for that.
889 Q-Baptized into the new and everlasting covenant? A-I don't think that is what it meant,-
890 Q-Well what do you think it meant? A-I think it meant that new order of marriage.
891 Q-Well that is what this says? A-Yes sir.
892 Q-And that is the reason you were baptized into it? A-No sir.
893 Q-It is not? A-No sir.
894 Q-Well what is it you were baptized into then? A-Well it was the plural order of marriage, for I was baptized into that before. I was baptized like the rest of us because I felt that we needed it and it could not do us any harm,-we were baptized,-couple the two, but it was proper and meet that we should be baptized again after all our troubles and transactions.
895 Q-And that is the reason you were baptized when you first came here? A-Yes sir.
896 Q-And not into this new and everlasting covenant? A-I couldn't say for sure that it was, but I don't think it was. I understood it was on account of the troubles that we had gone through with that we felt it would be better for us to be baptized in it,-at any rate it would do us no harm.
897 Q-Could you go through the endowments before you were baptized here? A-No sir.
898 Q-Well is that not the reason you were baptized here? A-No sir, for I had my endowments ~~xxxx~~ in Nauvoo.
899 Q-You had those in Nauvoo too and you not? A-No sir.
900 Q-Did you not take any endowments at all here? A-Only for the dead,-I had the rest in Nauvoo.
901 Q-You had your endowment for the dead here? A-No sir
902 Q-Did you have any endowments for the dead in Nauvoo? A-No sir.
903 Q-You never heard of that did you in Nauvoo,-endowments for the dead? A-Yes sir, I think so. They were baptized for the dead there I think.
904 Q-They were baptized or had endowment, for the dead, before Joseph died? A-Well they were baptized for the dead, but I don't know so much about the endowments.
905 Q-Now tell me how you could be the wife of Joseph Smith,-the plural wife of Joseph Smith in May 1843, when on the 12th day of July 1843, "Prepare thy heart to receive and obey the instructions which I am about to give unto you"? A-Well that is all right. That don't say that he had never been given any instructions before that.

1 ^ or the revelation regarding polygamy.

906 Q-Well he says on July 12th 1843 to prepare thyself to receive and obey the instructions which he was about to give, and then he goes on and gives the instructions with reference to polygamy ^ which you refer as the revelation on polygamy. Or is that, is the one, that this revelation was received on July 12th 1843, how could you be married to Joseph, with in March or May 1843, for at time the revelation was not given if the date ~~xxxx~~ given here is correct? A-I don't understand.

907 Q-You were married? A-Yes sir.

908 Q-You were married to Joseph? A-Yes sir.

909 Q-As a close corporation? A-Yes sir.

910 Q-Still to a select few? A-Yes sir. Q-Not that it was revealed unto all the world you

911 Q-Do you mean to say that you did not believe in it. A-Sir I did, Q-Do you say that you did believe in it? A-Sir I did, Q-Do you say, -that I did, I did believe it.

912 Q-But it was true that it was not, then, -that it was true? A-Well I did, I did believe it.

913 Q-Well do you know anything about, -between it and the time you were married to Joseph? A-I don't, I believe he talked to me about it.

914 Q-Do you know anything about the contract? A-No sir.

915 Q-Do you know anything about the contract? A-No sir.

916 Q-Did Joseph ever say anything about, -the contract? A-No sir.

917 Q-Do you know of any family lived? A-Yes sir, -I am from the, -I am of the family lived.

Counsel for defendants object to the question as to the contract between the parties as incompetent, irrelevant, immaterial, and not cross examination.

918 Q-Well, I ask.

919 Q-Was you married by Mr Powell, -was you married by Mr Powell, -the time and place, -and tell about it. A-It was the time and place that was published in Nauvoo on October 1st, 1843, Q-Do you say, -did you see the paper that was published in Nauvoo on that morning? A-I do not remember whether I did or not.

920 Q-That you cannot say of your own recollection, that this paper was issued on the 1st day of October, 1843? A-I don't know.

921 Q-You can't say anything about it, as to whether it is the paper or is not the paper? A-No sir of course I can't only I say I think it is. I have no doubt but that it is for it looks like it. It looks like the times and seasons, for I have seen of them, and it looks like the ones I have.

922 Q-Well did you read the paper on that morning? A-No sir, I don't remember that I did.

923 Q-You don't know that that is contained in this paper is the same as was contained in that paper of that issue? A-No sir I don't know anything about that.

Re-cross examination by Mr P.P. Kolley,-

924 Q-Have you volume three of the Times and Seasons? A-No sir.

925 Q-What volumes have you? A-I have volume five and volume six.

926 Q-Well there was a volume one,two,three,four,five and six of the same paper was there not? A-Yes sir.

927 Q-You have not volume one,two,three and four of that publication? A-No sir.

928 Q-There was or are such volumes? A-I suppose so.

929 Q-And that was the regular church paper? A-Yes sir it was the church paper.

930 Q-And you say this book,or bound volume entitled the times and Seasons,looks just like the volumes you have at home? A-Yes sir. It looks like it,-it is the same size and everything and looks just like it,but it is bound different. That is all that I can see different.

"church of Christ" as we called it. It was called the "church of Christ" or the "church of latter day saints."

T5 Q:- State what the full name of the church was Mr. Cole?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and not relevant to any of the issues of this case and herein.
A:- It was called the "church of Jesus Christ of Latter Day Saints."

T6 Q:- [illegible]
A:- [illegible] What is the?

T7 Q:- [illegible] A:- [illegible]
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, [illegible] to the [illegible]

T8 Q:- [illegible]

T9 Q:- [illegible] office was held?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, [illegible]
A:- [illegible]

80 Q:- [illegible] A:- [illegible]

81 Q:- [illegible]

82 Q:- [illegible]

83 Q:- [illegible]
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, [illegible]
A:- [illegible]

84 Q:- [illegible]
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and there is no issue in this case under which such testimony would be admissable.

85 Q:- [illegible]

86 Q:- [illegible]
Counsel for the plaintiff objects to the question asked the witness on the ground that it is [illegible]
A:- [illegible]

87 Q:- [illegible] you to state to the reporter [illegible] if anything, about the [illegible] of the [illegible] commonly called "polygamy" [illegible] practiced in the church of Jesus Christ of Latter Day Saints, before the [illegible] of [illegible] the church?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and there is no issue in this case under which such testimony would be admissable.

26 Q:-Answer the question,if you can? A:-Please put the question again?

29 Q:-I [illegible] you to state to the reporter what you know if any thing about the doctrine of plural marriage, commonly called " polygamy being taught or practiced in the church of Jesus Christ of Latter Day Saints, of which you were one, as a member, at Nauvoo, during the life of Joseph Smith,the prophet? A:-Yes sir,it was taught by Joseph Smith.

Counsel for the plaintiff moves the court to strike the [illegible] from the record on the ground [illegible] immaterial, irrelevant and incompetent.

:-I [illegible] only tell,for I have [illegible],-it [illegible] I think.

30 Q:-[illegible] any circumstance or [illegible] principal of the doctrine of [illegible]?

Counsel for the defendant [illegible] the admission of the [illegible].

31 Q:-[illegible]

Counsel [illegible] the admission of the [illegible] and [illegible] the [illegible].

A:-[illegible]

32 Q:-[illegible] A:-[illegible].

33 Q:-[illegible] A:-[illegible].

34 Q:-[illegible] in [illegible] and [illegible]

Counsel [illegible]

[illegible] the [illegible] and [illegible]

35 Q:-[illegible]

Counsel for the plaintiff [illegible] the admission of the [illegible] ir-[illegible].

:-[illegible]

36 Q:-[illegible] first, [illegible] the [illegible] principal [illegible]

Counsel [illegible] the admission of the [illegible] and [illegible] given.

A:-[illegible].

37 Q:-[illegible] principle of plu-[illegible]

Counsel [illegible] the admission of the [illegible].

A:-[illegible] to [illegible] question,-please put the question again?

38 Q:-[illegible] you to state to the reporter what you know [illegible] teaching or practicing [illegible] plural marriages during the life of Joseph Smith,-what you know about the [illegible] A:-[illegible] practice it also.

Counsel for the plaintiff moves the court to strike the

answer of the witness from the record on the ground that it is incompetent and immaterial, and not responsive to the question asked.

39 Q:-Was any one present at the time that Joseph Smith taught the principle of plural marriage that you referred to?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial to any of the [illegible].

A:-Yes sir.

40 Q:-- [illegible] principle

A:-[illegible].

41 Q:-[illegible]?

Counsel for the plaintiff objects to the question asked [illegible] for the reasons above set forth.

[illegible].

42 Q:-[illegible] say [illegible]?

Counsel for the plaintiff objects to the question asked [illegible], and also [illegible].

A:-[illegible], but [illegible].

Counsel for the plaintiff moves the court to exclude from the record all the answer [illegible] question [illegible], on the ground that it [illegible].

43 Q:-Were you ever present when any one was married under this plural marriage doctrine, as taught by Joseph Smith?

Counsel for the plaintiff objects to the question asked [illegible] on the ground that it is incompetent, irrelevant and immaterial, and [illegible].

A:-Yes sir.

44 Q:-[illegible] present?

Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.

A:-Please repeat that.

By Mr. [illegible],-

45 Q:-I will ask you to state the circumstances under which you were present and saw any one married under the operations of this plural marriage doctrine, or [illegible] it? A:-[illegible]

(In [illegible] the witness [illegible] ill.)

A:-(continued) I [illegible] feel to [illegible]. Well I was present, [illegible] marriage ceremony [illegible].

Counsel for the plaintiff moves the court to exclude from the record the answer of the witness on the ground that it is incompetent, irrelevant, immaterial and hearsay, and not responsive to the question.

By Mr. Hall--

46 Q:-Who did you marry? A:-Louisa Beaman to the prophet.

Counsel for the plaintiff objects to the question and the answer of the witness for the reasons above given.

47 Q:-You married Louisa Beaman to the prophet Joseph Smith? Counsel for the plaintiff objects to the question for the reasons above set forth.

By Mr. [illegible],-"Might we not have some agreement about these objections, by which it would appear on record that it is agreed that all objections might be made on the trial of this case, and save the time and expense of incorporating them into the record?"

By E.L.Kelley,-"I think not. We prefer to make our objections as we go along,and then we will know we have them."

By Mr.Hall,-

48 Q:-You married Louisa Beeman to the prophet Joseph Smith? A:-Yes sir.

49 Q:-About what year was this?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and leading

A:-In '41 or close to it. Now that is my best recollection.

50 Q:-When did the prophet Joseph Smith first teach you that doctrine?

Counsel for the plaintiff objects to the question on the ground that it is leading,incompetent,irrelevant and immaterial.

A:-He taught me that doctrine in '40. It was in '40 or about that time,-that is my best recollection.

51 Q:-Where were you living when you were first taught that doctrine?

Counsel for the plaintiff objects to the question on the ground that it is ilcompetent,irrelevant and immaterial and leading.

A:-I was living in Montrose in Lee County,Iowa,right acrods the river opposite Nauvoo.

52 Q:-Do you know whether Joseph Smith ever lived any with Louisa Beeman as his wife?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial and is leading.

A:-Yes sir.

53 Q:-You may state how you know it?

Counsel for the plaintiff objects to the questionasked the witness for the reasons above set forth.

A:-I know it for I saw him in bed with her.

54 Q:-Wemm that is all,-you may take the witness?

Cross examination by P.P.Kelley,-

55 Q:-You say your name is Joseph Bates Noble? A:-Yes sir.

56 Q:-Where were you born Mr,Noble? A:-I was born in Massachusetts,in Berkshire County.

57 Q:-When did you first join the church? A:-It was in '32

58 Q:-Where? A:-Where did I join it?

59 Q:-Yes sir? A:-It was in Ohio.

60 Q:-In what place in Ohio? A:-It was in Kirtland.

61 Q:-Who baptized you? A:-Joseph Smith.

62 Q:-Who was present at the time you were baptized,besides you and he? A:-Well there was a number present I couldn't tell you their names now.

63 Q:-Can you name any,-can you name any that were present? A:-I don't know that I can.

64 Q:-Was it at a conference? A:-Joseph Smith went into the water,-

65 Q:-Well now answer my questions please. Who was present besides you and he,for I don't care whether ~~you~~ he went into the water or whether you did,or whether you went on top of it,-all I want is for you to answer the questions I propound to you?

By Mr.Cabell,-"Go on and answer the question if you can do so." A:-There was a number present but I can't tell their names.

By Mr.Kelley,-

66 Q:-Can you tell airy one of them? A:-I can 't say.

67 Q:-Was your wife there? A:-Yes sir.

68 Q:-Was your daughter there? A:-Yes sir.

69 Q:-And your wife's sister? A:-Yes sir.
70 Q:-What was her age? A:-My daughter was,-I believe she told me that she was nine years old at the time.
71 Q:-Well what do you say about her age? A:-About that?
72 Q:-Yes sir,about that and nothing else? A:-Well that was it.
73 Q:-Was your wife's sister married then? A:-I don't know that is a pretty hard thing to tell,-
74 Q:-Well was she baptized then? A:-Yes sir,it was a general time for baptizing.
75 Q:-You all were baptized then? A:-Pretty near all were.
76 Q:-All that were there? A:-Yes sir,he stood in the water and baptized them.
77 Q:-He baptized the whole crowd? A:-He baptized a good many.
78 Q:-Well he baptized the whole crowd didn't he? A:-Well I can't say that he did.
79 Q:-Did you nor just say that he did? A:-Well I don't know that he did,-there might have been some that he did not.
80 Q:-Well he baptized over one hundred that day didn't he A:-Well I don't know that it was as many as that.
81 Q:-Well fifty was it?
Counsel for the defendants objects to the question asked the witness on the ground that it is immaterial and irrelevant and not cross examination.
82 Q:-Was that sister of your wife's you referred to Louisa Beaman then? What is that? What do you say to that?
(Witness hesitates a great deal in answering nearly every question that is asked him)
A:-I don't know whether she was then or was not.
83 Q:-Well she was baptized there that day wasn't she?
A:-I could not say whether she was or not.
84 Q:-Well was she there at all? A:-Yes sir,she was there.
85 Q:-Well do you know that she was there? A:-Yes sir,I am confident she was there.
86 Q:-How old was she? A:-I can't tell.
87 Q:-She was about seven years old was not she?
Counsel for the defendant objects to the question asked the witness on the ground that witness that witness has just stated he did not know how old she was.
A:-Seven.
88 Q:-Yes sir,-what do you think about her age?
Counsel for the defendant objects to the question asked the witness for the reasons above given,and for the further reason that it calls for an opinion of the witness.
A:-It is pretty hard to remember people's ages in that way. I know it is hard with me now to do it.
89 Q:-Well where did you go from Kirtland? A:-Well in the exodus we came westward.
90 Q:-In what year? A:-Oh did you say from Kirtland?
91 Q:-Yes sir,from Kirtland where did you go and in what year was it? A:-Well we left there for Missouri.
92 Q:-You left Kirtland for Missouri,did you say? A:-Yes sir. We went to Missouri.
93 Q:-You did? A:-Yes sir.
94 Q:-That is one of the things you are sure of? A:-Yes sir.

95 Q:-Well what year was that in,that you left Kirtland for Missouri?
What year was it that we left Kirtland and came to Missouri?
96 Q:-Yes sir? A:-Well it was in '32 I think.
97 Q:-How long did you live in Kirtland? A:-Three or four years.
98 Q:-You lived in Kirtland three or four years? A:-Yes sir.
99 Q:-What did you do there at Kirtland? A:-I was attending a mill there for Willoughbey.-
100 Q:-Did you raise any money there for the church?
A:-What to do?
101 Q:-To purchase lands for the church?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper cross examination.
102 Q:-Answer the question? A:-What is the question?
103 Q:-Did you raise any moneys there to purchase lands for the church in Missouri? A:-No sir,not as I know of.
104 Q:-Did the church raise any funds there to purchase lands for the church in Missouri? A:-I can't tell you.
105 Q:-You do not know anything about that? Do you say that you do not know anything about it? A:-Well I don't. I can't particularize things. There may have been money sent out to Missouri for all I know,but I can't particularize these things now.
106 Q:-Don't you know that there was money contributed by the members of the church there at Kirtland for the purpose of raising a fund to be sent out to Missouri to purchase lands for the church?
Counsel for the defendant objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and leading.
A:-What is the question?
107 Q:-Don't you know that there was money contributed by the members of the church ~~XXXXXXXXXXXXXXXXXX~~ Kirtland who you were living at Kirtland for the purpose of purchasing lands in Missouri for the church?
Counsel for the defendant objects to the question asked the witness on the grounds and for the reasons above set forth.
A:-I don't know about these things. I have heard sounds you know but I can't put them in shape.
108 Q:-You heard sounds there at that time did you?
A:-I have heard these things that I can't call up up now. I can't put it in shape.
109 Q:-You did not pay anything for that purpose did you?
A:-No sir I believe not.
110 Q:-Well do you know whether you did or not? A:-I can't tell you sir.
111 Q:-You do not know a member of this church here in Salt Lake City ,or in Utah Territory that did,do you?
Counsel for the defendants objects to the question asked the witness for the reason and on the groun that it is imcompetent,irrelevant and immaterial,and leading and not cross examination.
112 Q:-Answer the question? A:-I don't know now. My head is in such a poor condition that I will be "dogged" if I can remember. I don't know anything it seems.
113 Q:-You don't know anything this morning you say?
A:-I don't know a great deal,that is sure,-whether this morning or any other.
114 Q:-You don't know much this morning. Is that what you say? A:-This morning? I don't know much and never did.
115 Q:-You don't know much this morning only about polygamy and Joseph Smith's connection with it,and you know all about that?

A:-Well that forces it upon me more particularly.
II6 Q:-Is it because you have been connected with that crime,-with the commission of that crime yourself? A:-Yes sir,I expect so.
II7 Q:-You know all about polygamy A:-I expect I do.
II8 Q:-And your conscience is gnawing you? A:-Yes sir,It has a terrible gnawing fit on it this morning.
Counsel for the defendants objects to the last ten questions and answers for the reason that they are incompetent,irrelevant and immaterial and not cross examination.
II9 Q:-You feel very bad over it,don't you? A:-Over what?
I20 Q:-Is it not a fact that you feel very bad over your sins in connection with polygamy? A:-Not much,thank you.
I2I Q:-Well you went to Jackson County,Missouri,didn't you,from Kirtland? A:-No sir.
I22 Q:-You did not? A:-No sir.
I23 Q:-Well you went to Far West didn't you? A:-Yes sir.
I24 Q:-What time did you go there? A:-I don't know as I can tell the time.
I25 Q:-Well was it in '37? A:-I am under the impression that it was in '38.
I26 Q:-You think it was in I838 you went to Far West? A:-Yes sir.
I27 Q:-Did you attend a conference in Far West in I838? A:-Let me see whether I did or not. I believe not. I think not. I think I did not make much of a stay there.
I28 Q:-You did not make much of a stay there? A:-No sir, for I think it was almost the time of our exodus that I went up there,and had to go away in a short time,so we didn't get much of a chance to stay there.
I29 Q:-Were you not an officer of the church at that time? A:-How is that?
I30 Q:-I asked you if you were an officer in the church at that time? (witness does not answer) Well go on and answer the question,for the judgment day is coming,and it soon may be here? A:-Well I guess so.
I3I Q:-And I want to get through by that time? A:-So do I.
I32 Q:-Let the record show Mr.Reporter that the witness takes from five to ten minutes to answer a question. A:-I made but a very short stop there.
I33 Q:-Where? A:-At Far West.
I34 Q:-I did not ask you anything about that. I asked you if you were an officer in the church at the time you came to Missouri. Now you know whether you were or not and it should not take you ten or fifteen minutes to answer the question either? (after waiting ~~waiting~~ several minutes,the witness not having answered,counsel says) Were you an elder or priest or deacon,or what were you? A:-Wait a little. I am trying to call it up,for I can hardly tell.
I35 Q:-Were you anything at all? A:-It was hardly anything I guess.
I36 Q:-Let the record show that this witness says he was hardly anything. Then you say in I838 you were not an officer in the church do you? A:-In I838,-let me see.
By Mr.Cabell,-"If it is possible I would lkie to have the record also show Mr.Kelley's tone of voice and manner."
By Mr.Kelley,-"Well the reporter will get it down. I know that reporter and he will get it down right. I am sure that the witnesses action on the stand justifies it. I thought to talk loud for this witness is hard of hearing."

that you are defendants

I38 Q:-Are you not hard of hearing Mr.Noble? A:-Yes sir, I am tolerably hard of hearing now.
I39 Q:-You say you are hard of hearing "now",-do you mean that that is not your normal condition? A:-No sir,I can't hear very well now. I can't hear as well as I once could. I am just about half sick,and that is the honest fact about it. You had better adjourn this and let me go until another time.
I40 Q:-We will finish the cross examination now? You won't get any sicker on account of your crimes,-?
By Mr.Cabell,-"Let the record show that the defendants object to the manner of the attorney cross examining this witness,on the ground that it is insulting and disrespectful to the witness."
By Mr.Kelley,-
I41 Do you recollect whether or not you were an officer in the church in 1838? A:-I have forgotten about all that I ever did know,actually,with regard to dates.
I42 Q:-What time did you leave Far West,Missouri A:-Well my recollection is that we left there in '39 didn't we?
I43 Q:-Well you are the witness? A:-Well it is my recollection that we came out of there in '39. I think that is when we came out of there.
I44 Q:-Who came out with you? A:-What is that?
I45 Q:-Who came out with you? A:-Well that is something I am trying to call up.
I46 Q:-Well if you can't recollect the names of anybody that came out with you,I will ask you what time you arrived at the Mississipi on your way out? A:-Well now it is considerable trouble to tell those dates.
I47 Q:-Well I want to know those things I am asking you or I would not ask you. Do you recollect the time that you arrived at the Mississipi River on your way from Far West? A:-I can't remember.
I48 Well seeing you cannot recollect the other things,-I will ask you what place you stopped at in the state of Illinois? A:-What is that?
I49 Q:-What place did you stop at in the state of Illinois when you first came out of Missouri,-after leaving Far West? A:-We stopped at Nauvoo.
I50 Q:-That was the first place you stopped at? A:-Yes sir it was called Commerce then.
I51 Q:-You did not stop at any place after you came out of Missouri until you got to Commerce,which was afterwards called Nauvoo? A:-No sir,-yes we did too,-we stopped at Quincy a little while.
I52 Q:-How long did you stay at Quincy? A:-I drove the team that came out when I did,and took Hyrum Smith up to Commerce.
I53 Q:-Hyrum Smith came out of Missouri with you? A:-Yes sir,he came out with the crowd.
I54 Q:-He came out with the outfit that came out of Missouri? A:-Yes sir,with the crowd I guess.
I55 Q:-Joseph Smith went out with the crowd too? A:-Yes sir.
I56 Q:-And you are sure about that,are you? A:-Hold on,-hold on and let me see. Wasn't he in jail then?
I57 Q:-Well I don't know anything about it,and that is the reason I am asking you about it? You said that Hyrum and Joseph Smith came out with the crowd? A:-Well I recollect moving Hyrum up to Commerce,but I suppose Joseph was in jail about this time.
I58 Q:-Well what do you say about Hyrum being in jail too A:-I can't say.

I59 Q:-Now don't you know that neither of them were with you when you left Missouri? A:-I do know,by George.

I60 Q:-By whom? A:-Oh don't take me up too quick,-I said I did know by George,-that is an expression of mine, ;-yes they were in jail. I remember that now.

I61 Q:-They were in jail? A:-Yes sir,but I remember after they got out Hyrum came to Quincy,and I remember taking him down to Commerce with my team.

I62 Q:-Are you an elder in the church now? A:-Yes sir.

I63 Q:-And in good standing? A:-Well I don't know hardly. I could hardly tell.

I64 Q:-Well what is your best recollection now about Joseph and Hyrum coming out of Missouri with you? A:-No sir.

I65 Q:-Don't you know that they did not come,-neither of them? A:-That is what I said,-I remember that they were in jail.

I66 Q:-You remember that they were in jail at the time? A:-Yes sir.I believe so. I did not see them there, but I believe they were.

I67 Q :-After you left Missouri you went over to Illinois and stopped at Quincy a month or two did you not? A:-Yes sir,we stopped there,but I don't think it was that long.

I68 Q:-What is that? A:-I say I guess it was not so long as that.

I69 Q:-Well then you went down to Commerce that was afterwards called Nauvoo? A:-~~XXXXXXX~~ Yes sir.

I70 Q:-Well now you lived in Lee County across the river from Nauvoo for a while,and did not go over to Nauvoo to live right away? A:-Yes sir.

I71 Q:-First I will ask you what was the law of the church on marriage at that time? A:-What time?

I72 Q:-Up to the time you got to Quincy? A:-The law of the church?

I73 Q:-Yes sir,the law of the church,-was it polygamy,-answer the question? A:-My head is so bad,-I can't think of anything.

I74 Q:-Well you married people before that didn't you? A:-Before that? What is that?

I75 Q:-You married people before that time did you not? As an elder in the church you had married people before that hadn't you? You had performed the marriage ceremony before that time,hadn't you,by virtue of your being an elder in the church? A:-Not at the time that we came out,-not at that time,for I landed in Iowa.

I76 Q:-What was the law of the church on marriage when you were at Quincy,Illinois? A:-I can't tell you.

I77 Q:-Do you say that you cannot tell me? A:-I can't tell you. My head is so bad,-

I78 Q:-Was there any law at all? A:-I guess not,-I can't tell what it was it has been so long ago,and my head hurts so.

I79 Q:-Don't you know there was a law? A:-I can;t tell you.

I80 Q:-If there was any you don't know anything about it,-Is that what you mean to tell me?

By the Examiner,-

I81 Q:-Mr Noble do you feel too ill to go on with this examination? A:-I do.

I82 Q:-Well it is apparent that there is something wrong with this witness,so far as I am able to judge.I will excuse him until tomorrow morning at the hour of half past nine,at which time you will be here.

Wednesday March 23rd at the hour of 9.30 o'clock A.M. the witness Joseph B. Noble, resuming the witness stand, testified as follows, on cross examination.

By Mr. Kelley,-

183 Q:-When you were excused the other day by the examiner, you promised that you would return the next morning, and you failed to do so. What excuse have you to offer for your failure to appear when you promised? A:-Well I understood that I was excused to appear when I was called on, and as soon as I knew I was wanted here I came.

184 Q:-That is the reason you give for not being here yesterday? A:-Yes sir, and I hope it is a good one.

185 Q:-Mr. Noble, when did you say you became a member of this church? A:-It was in '32.

186 Q:-Whereabouts? A:-I have told you all about that before.

187 Q:-No you did not tell me. You told that gentleman there (Mr. Hall) but you did not tell me. A:-Do you want to know where it was I joined the church?

188 Q:Yes sir? A:-Well it was in Ohio.

189 Q:-Was it in Kirtland? A:-Yes sir, Kirtland, Ohio.

190 Q:-Who baptized you? A:-Well now I will alter that a little. It was not in Kirtland either, for it was two hundred miles east of that in northern New York,-in the northern part of the state of New York, near that Hill Cumora when I lived there.

191 Q:-Who baptized you? A:-Brigham Young.

192 Q:-In 1832? A:-Yes sir.

193 Q:-When did you first go to Kirtland? A:-It was in '33 and I went there to see the prophet.

194 Q:-How long did you stay? A:-I stayed nine days for he was cutting up hay in the field, and I worked with him during that time helping him cut his hay.

195 Q:-Well I don't care anything about the hay? A:-Well that is what I was doing.

196 Q:-Was the church at that time raising money to buy land in Missouri?

Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and not cross examination.

197 Q:-Were they raising money at that time for that purpose? A:-I can't tell you with regard to the date. There was some money raised for that purpose, but I don't know that it was quite as early as that.

198 Q:-You say there was some money raised for the purpose of buying land in Missouri? A:-I think so.

199 Q:-Who was it sent to to buy the land? Who was the bishop of the church at that time?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper cross examination.

A:-I am not thoroughly certain as to who it was.

200 Q:-Was it Bishop Partridge?

Counsel objects to the question on the ground that it is leading, and also on the ground that the witness has stated that he was not thoroughly certain as to who it was.

201 Q:-You go on and answer my question and pay no attention to him,-was it not Bishop Partridge?

Counsel for the defendants renew their objection to the question asked the witness for the reason heretofore given.
A:-I don't know.
202 Q:-Don't you know who the first bishop of the church was? A:-I know who the first bishop of the church was.
203 Q:-Who was it? A:-Bishop Partridge.
204 Q:-Well why couldn't you say so and save all this trouble? A:-I understand that sir, but you did not ask me that,-you asked me who the bishop of the church was that this money was sent to, and I said I didn't know, but when you asked who the first bishop of the church was I told you, for I knew that all the time.
205 Q:-He was the first bishop of the church? A:-Yes sir.
206 Q:-And he was the man to whom that money was sent? A:-Well now when it comes down to that I can't say, for I know that I don't know who that money was sent to,-I really don't know whether he handled that money or not.
207 Q:-Don't you know that he was the bishop of the church,-that Partridge was the bishop of the church in '38? A:-He was the bishop,-the first bishop of the church,-I know that.
208 Q:-He was the bishop in Missouri wasn't he? A:-I think he was the first bishop there in Missouri as well.
209 Q:-Where do you mean by "there"? A:-In Missouri.
210 Q:-Do you mean that Partridge was the first bishop in Missouri? A:-I think so, I think he was.
211 Q:-Well now he was the bishop of the church in Missouri and elsewhere when they were raising money-in the church to buy land in Missouri, wasn't he? A:-There were other men that had to do with it as well as the bishop.
212 Q:-Well name us the other ones? A:-Well H.K.Whitney was a prominent man.
213 Q:-Who was the other? A:-Partridge was the other.
214 Q:-Who was another? A:-I could not tell you.
215 Q:-You don't know who was another? A:-No sir.
216 Q:-Was not William Marks another prominent man in the church?
Counsel for the defendants objects to the question asked the witness on the ground that it is not cross examination, is irrelevant and immaterial, and on the ground that the witness has already stated that he did not remember, and the question therefore in its present form is leading.
217 Q:-Was not William Marks a prominent man in the church at that time? A:-Yes sir, William Marks was a prominent man in the church then, but I do not know that he was engaged in the work,-in the affair you speak of.
218 Q:-He was a moneyed man too wasn't he? A:-Well I guess he had a little change in his pocket.
219 Q:-Did he not have the deed to the temple lot in Kirtland to secure himself for money advanced to the church,-didn't Marks have that deed?
Counsel for the defendants objects to the question for the reason that it is incompetent, irrelevant and immaterial, and not cross examination nor the best evidence.
A:-I don't know.
220 Q:-You don't know anything about that? A:-No sir.
221 Q:-Well now Partridge was a bishop, and Whitney was a bishop in the same time,-in '33 wasn't he? A:-Well I think it was close on that time,-not far from it that Whitney was made a bishop.

222 Q:-They were the bishops when they were raising the money to buy land in Missouri,were they not? A:-With regard to the raising of that money it may be one side of that date or the other. I can't say to the time that that was done,for it may be a little before that date or a little after it. I can't tell you when it was for I don't know much about that of my own knowledge,although there was some money raised I think.

223 Q:-Well I don't care a straw whether it was in '31, '32 or '33,but there was money raised at one time to purchase land in Missouri for the church? A:-As I said before,Iheard sounds of it but I did not see it.

224 Q:You heard that the money was raised and sent to Missouri? A:-Yes sir.

225 Q:-And you heard afterwards that there was lands bought,didn't you? A:-Yes sir,I heard there was land bought.

226 Q:-And you know it was set apart and dedicated for the temple did you not? A:-In Jackson County?

227 Q:-Yes sir,in Jackson County,Missouri, A:-No sir,I did not

228 Q:-In Jackson County,Missouri,at Independence? A:-No sir,I did not because I did not stand by and see it done. What I know about it is what I heard about it,but I did not stand by and see it done,so I don't know it.

229 Q:-You don't know anything only what you stand by and see done,-is that it? A:-Well now now. I have lost about all there was in my noggin,and there ain't but little left in it.

230 Q:-Well you heard the report in the church about it? Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent irrelevant and immaterial,and not cross examination but calls for hearsay testimony.
A:-Yes sir,I heard about it.

231 Q:-And you heard that it had been bought and dedicated to the church? A:-I did.

232 Q:-You heard Bishop Partridge talk about it didn't you?
Counsel for the defendant objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not proper cross examination,and calls for hearsay testimony,when the witness should be permitted to testify to facts only.

233 Q:-You heard it talked and preached or proclaimed from the pulpit in the church did you not?
Counsel for the defendants objects to the question asked the witness for the reason set forth in the last preceding objection.
A:-I heard some talk about it,but how deep and how far,and to what extent or length it went I do not know. I don't know that because I did not have any thing to do with it.

234 Well were you not in Independence? A:-No sir.

235 Q:-You never were there at all? A:-No sir,never in my life.

236 Q:-Were you ever in Jackson County? A:-Jackson County Missouri?

236 Q:-Yes sir. A:-No sir,I never was in the county,but when I was up through that section of country I was close enough to see it. I went up on the hills along the river over in Clay County and looked over and saw it.

238 Q:-You have seen Jackson County then? A:-Yes sir. I saw it from an elevation in Clay County.

239 Q:-You were in "Zion's Camp" in Clay County,were you not? A:-Yes sir,I was with "Zion's Scamps".

240 Q:-Was that what they were called? A:-Yes sir,they

were nicknamed that name.
241 Q:-Then you were with"Zion's Scamps"? A:-Yes sir that is what they said.
242 Q:-I did not call them that name,then why do you call them that? DO you think it is sharp and witty to term them that? A:-Well they were pretty good fellows,-still they were boys then and were full of fun Perhaps I had better take it back.
243 Q:-Well now do you say there was any scamps about it? A:-Well I expect that there was some of them were scamps.
244 Q:-Well when I call your attention to "Zion's Camp" do you call the occupants or the people that were there "Zion's Scamps"? A:-No sir, I just said that because that was the name we went by amongst some people,but I don't think we deserved it at all. They were boys,a good many of them,and it was put that way just for fun.
245 Q:-Who put it that way in the first place? A:-Brigham Young,and he did it just for fun I guess.
246 Q:-You heard him say that,did you?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and hearsay and not proper cross examination.
247 Q:-Did you hear Brigham Young say that? A:-Yes sir,I heard it.
248 Q:-You never heard Brigham Young say anything about the temple lot,though,did you?
Counsel for the defendants objects to the question asked the witness for the reasons set forth in the last objection.
A:-Not much.
249 Q:-You say you did not hear him say anything about it A:-That I do not recollect of.
250 Q:-You remember though what he said about "Zion's Scamps",but you can't recollect if he ever said any thing about the temple lot. A:-Well I remember those nonsensical things,and I don't recollect those other things at all.
251 Q:-Well did you not hear Brigham say something about the temple lot?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it t,irrelevant and immaterial,and not proper cross examination,hearsay.
A:-I don't know that I did.
252 Q:-How had the church been driven off its lands where or there in Jackson County,Missouri,at Independence at the time that Zion's Camp was established in Clay County? A:-Yes sir.
253 Q:-It had? A:-Yes sir.
254 Q:-How far was Zion's camp from Independence? A:-How far?
255 Q:-Yes sir,if you know? A:-Well for all that I knew it might have been a good many thousand miles I was going to say.
256 Q:-You were in Clay County? A:-Yes sir,we were in there.
257 Q:-Zion's Camp was in Clay County? A:-Zion's Camp covered a good deal of land,-it was from Ohio,-well it was everywhere at that time we thought.
258 Q:-Then you mean to say that Zion's Camp extended from Kirtland Ohio,to Clay County,Missouri? A:-I mean no such thing. The way it was we went up with the prophet to that place in Clay County and it was called Zion's Camp.
259 Q:-And you located there in Clay County? A:-Yes sir.
260 Q:-Well how far was that place from Independence Missouri? A:-I told you I could not tell you the exact distance,but by getting on an eminence that was there,you could look over into Jackson County

or what they told me was Jackson County,and so it could not have been so very far.

261 Q:-It was just a few miles they told you? A:-Yes sir the Missouri river separated them,-that was all they said.

262 Q:-And that was all that did separate them? A:-Yes sir,that was all that I know anything about.

263 Q:-just the distance across the Missouri river? A:-Yes sir,I suppose so.

264 Q:-Why did you not go over into Jackson County and settle on those lands there?

Counsel for the defendants objects to the question asked the witness for the reason that it is incompetent,irrelevant and immaterial,and not proper cross examination,and calls for an opinion of the witness.

A:-I don't know.

265 Q:-Why did you not go over into Jackson County,and settle on the lands there when you were so near them,-when there was only the river between you and them? A:-Well that was not our object in getting up there. We were just a traveling camp.

266 Q:-Was it not because the church had just been driven off its lands there,and the members of the church, and you were not permitted to go over there? A:-Yes sir,I think so.

267 Q:-Well don't you know that was the reason? A:-I guess that covers it.

268 Q:-That is the fact about it? A:-I think it is close to it anyway. They were driven off their land and we went up there to see if they could be re-instated, for they were mobbed out of the county I understood. There was a good many of the people who had been d driven out and they told me about it many a time.

269 Q:-And the reason you did not go back to Jackson County was because you did not consider it safe for you to go,-is that not it? A:-Well that has some thing to do with it.

270 Q:-What year was it you went into Clay County? A:-In '34.

271 Q:-You went into Clay County in 1834? A:-Yes sir.

272 Q:-How long did you stay in Clay County? A:-Long enough to have the cholera,and some of us died and were buried there.

273 Q:-Well you could have that in a few days and die,but how long did it take you to have it? A:-It took us between twenty and thirty hours to die through the worst of it.

274 Q:-Well was that as long as you stayed in Clay County A:-Well I guess it was a little longer,-a few days longer.

275 Q:-Well about how long were you there? Did you leave there in '34 or did you leave in '35? A:-In '34.

276 Q:-In what month? A:-Now let me see,-"dogged" if I can tell what month it was. That was a great many years ago,-nearly sixty years ago,and it is hard for me to remember all these things. I know I had the cholera there nigh unto death,but through the grace of God,assisted by the prophet,I recovered and regaindd my usual good health,but I know that I assisted in burying four out of the company of us that were there,before I left.

277 Q:-Well I am not asking you about that,-I am asking you about the time that you left there? A:-Well I thought you wanted to know all that wew were up to there.

278 Q:-Well I don't care about that? A:-There is no harm in telling you anyway.

279 Q:-Well then when you left Clay County you went over into Caldwell County,to Far West? A:-No sir,not then.

280 Q:-Well you did afterwards? A:-Yes sir.
281 Q:-When? A:-Yesrs afterwards.
282 Q:-Years afterwards,-do you say it was years afterwards before you went to Caldwell County,-after you were in Clay County? A:-No I did not understand the question. We did not go there right away,for I had to go back and get my woman and move her there with the family.
283 Q:-What time was it that you were in Clay County,did you say? A:-It was in '34.
284 Q:-And when did you move your family to Caldwell County? A:-Well that would be four years afterwards after all for it was in '38 that I moved to Caldwell County.
285 Q:-Where were you married? A:-Well I went back to my own place where I was raised and married my wife there.
286 Q:-Where was that? A:-In New York State.
287 Q:-Then you were mattied in New York State? A:-Yes sir.
288 Q:-Who married you? A:-Who married me?
289 Q:-Yes ri? A:-Well it was A Presbyterian preacher,-I forget his name,but he was a preacher,and he married me all right and tight beyond a question.
290 Q:-Then you went out to Far West,Missouri in 1838? A:-Yes sir.
291 Q:-And took your family with you? A:-Yes sir.
292 Q:-Then when did you get there? A:-Where?
293 Q:-To Far West? A:-In 1838.
294 Q:-In what month I mean? A:-I forget the month.
295 Q:-Well was it in the fore part of the year,or the latter part? A:-Well you lawyers are queer people,-it is hard to beat you. What is the use of your asking me so many fool questions?
296 Q:-I asked you that question sir because I wanted to know whether it was in the fore part of the year or the latter part of the year that you arrived there, and did that simply because I conceived that it might be of importance to the side of the case I represent to be possessed of that information? A:-I can't remember.
297 Q:-Well according to the best of your recollection what time in the year was it?
Counsel for the defendants objects to the question asked the witness on the ground that the witness says he cannot remember,and any reply that he may give would be simply a guess on his part,and on the further ground that it is irrelevant and immaterial,not proper cross examination and is leading.
A:-I don't remember the date,for dates are always a trouble to me.
298 Q:-Just state your best recollection,for that is all we are asking for? A:-Well that is what I will try and do the best I can.
299 Q:-Well now was it in the fore part of '38 or the last part of '38? What is your best recollection as to that? A:-It was in the fore part.
300 Q:-Well how many months,-or about how long did you stay there? A:-In the latter part of '38 I left. I was kicked out,-I left any way and was kicked out, pitched out,knocked out,-at any rate I got out some way-and I could never tell very well how it was that I did get out,but I know it was in a hurry.
301 Q:-Was that the way that all the church went out,-was kicked out? A:-Yes sir.
302 Q:-Were they permitted to go back into Jackson County from Far West? A:-No sir.

303 Q:-Is it not a fact that they were driven from the state of Missouri then? A:-Yes sir.
304 Q:-Absolutely driven from the state? A:-Yes sir.
305 Q:-Were they not ordered to leave the state and ordered never to return? A:-I believe so.
306 Q:-They were driven from the state of Missouri as they had been driven out of Jackson County? A:-Yes sir,and they were finally driven out of the state of Illinois the same way.
307 Q:-Were they not driven out of Missouri upon the order of the Governor? A:-Yes sir I think so.
308 Q:-And you said,I believe,that you went from Far West to Quincy? A:-Yes sir.
309 Q:-Now when you were married was there any other minister present except the Presbyterian minister who married you? A:-There was no other minister or preacher,-he was sufficient.
310 Q:-Was that according to the law of the church? A:-Was what?
311 Q:-That marriage,-was that according to the law of the church? A:-That was out of the church,that was. I stepped over into the boundary and took a wife that was out of the church,not in it.
312 Q:-You married a woman then that was out of the church? A:-Yes sir,and all her family was out of the church, but I got them all in.
313 Q:-You got all your wife's family into the church? A:-I did.
314 Q:-Including your wife? A:-Yes sir.
315 Q:-Was it according to the laws of the church then that any minister could perform the ceremony?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and on the further ground that it is not proper cross examination.
A:-Well I was only on the threshold of the church at that time.
316 Q:-Answer the question? A:-What is the question?
317 Q:-Was it according to the laws of the church at that time that any minister could perform the marriage ceremony? A:-I can't say. There was no law upon it at that time that I know anything of.
318 Q:-Was there not a revelation on that particular subject at that time? A:-I think there wasn't then,-I think we got that afterwards.
319 Q:-Is there not a section in the book of Doctrine and Covenants relating specifically to marriage,and stipulating how it may be performed,and who are competent to wed? A:-Yes sir,there was afterwards,but there was not at that time,for it was not published then.
Counsel for the defendants objects to the questions asked the witness on the ground that they do not call for the best evidence.
321 Q:-Was it not published in 1888? A:-I can't tell you,but I know it was not published at that early time that I had that wedding, I spoke of.
322 Q:-You had that wedding in '3 8? A:-Yes sir.
323 Q:-And do you say the book of Doctrine and Covenants was not published in 1888? A:-Let me see the book,-tell me the date when it was published.
324 Q:-Hold on,-do you say it was not published in 1888? A:-No sir,I don't say it was not published,-it might have been.
325 Q:-Well now as a matter of fact was it not published in 1835?
Counsel for the defendants objects to the question on the

ground that it does not call for the best evidence.
326 Q:-Answer the question. A:-Please put the question again.
327 Q:-Was not the book of doctrine and covenants first published in 1835? A:-I could not say.
328 Q:-Do you say it was not first published then? A:-No sir.
329 Q:-You have read it haven't you? A:-Yes sir,I presume I have. I have read a good many things,but I can't remember all of them or hardly any of them,and the fact is I have lost my memory of these things.
330 Q:-Look at that book (handing witness the 1835 edition of the book of doctrine and covenants marked "Exhibit E.") and tell me what that is? A:-I can't read that.
331 Q:-Well you can read the title page,-is that the book of doctrine and covenants (the book handed the witness is one of the edition of 1835 in all respects the same as the one marked exhibit "E" with the exception of the title page which is in the book handed witness but which is missing in exhibit "E") A:-I guess so.
332 Q:-What is the date of that book? What is the date of its publication,-you will see it down at the bottom o of the book,-of the page? A:-Want is that,-is it '35? I think it is '35,-by ginger,it is as much as I can do to see it,but I think it is '35
333 Q:-Yes sir it is "1835" and that is the date of its publication? A:-Yes sir I guess that is right,but I would have to put on my glasses to get it right.
334 Q:-It is 1835 is it not,-I would like to have you be definite on that point? A:-Yes sir,it looks like it. I have no doubt but that is what it is.
335 Q:-You were married after that were you not? A:-Oh yes
336 Q:-You were married in 1836? A:-I was. The covenants were in manuscript when I went up there in 1831 I thought,but it looks there like as if it had been published in 1835,-I can't understand that.
337 Q:-You saw the manuscript in the hands of the prophet in 1836 do you say? A:-Well let me see now. No,no,I was mistaken about that,for by golly it was in '34 when I first went up there,-I am getting terribly astray for I went up there to Kirtland and saw the prophet in '33. Is that not right? Is it not so written?
338 Q:-Yes sir,I think that is the way it is written? A:-Yes sir,that is right and that is the time he showed me the manuscript. This was printed in '35,-~~yo~~ yes that is right,for it was in '34 that I saw the manuscript. Well now is that not strange for I had it in my noggin that it was in '33,-well,well,-a man is twice a child,-it is astonishing,for once when I was in my prime I could throw down the best of you that are here,and now I am like a child again,-it is astonishing.
339 Q:-Well that is not responsive to the question Mr.Hobbs A:-Well I am an old man and I am just bragging a little,as an old man has a right to do you know.
340 Q:-Well it was not proper for any minister whether he belonged to the church you belonged to ~~the church you belonged to~~,to perform the ceremony,or any justice of the peace or minister under the laws of the state where the marriage occurred?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,not proper cross examination,and does not call for the best evidence of the fact.

362 Q:-Well now has it not been the teaching of the church here,and the counsel of the church,that all marriages not performed by ministers of your own church were irregular,-that is,that all marriages not performed by your own priesthood are irregular? Counsel for the defendants objects tothe questionasked the witness on the ground and for the reason tha it is incompetent and immaterial,not proper cross examination and not the best evidence.
A:-What is it? Put the question again please?

363 Q:-I asked you if it had not been the teaching of the priesthood here and the counsel of the church,that all marriages not performed by the ministers of your own church were irregular,-that is,that all marriages not performed by your own priesthood are irregular; has that not been the teaching of the priesthood here and the counsel of the church,that all marriages not performed by your own priesthood were irregular?
A:-I don't know.

364 Q:-Do you say that you don't know anything about it,-you an officer on the church,and don't know about that? A:-I don't know anything about it at all.

365 Q:-Or you were at Quincy,Illinois at one time,-for a period of time I believe you stated,in 1838? A:-Yes sir.

366 Q:-After you were driven from Far West you went to Quincy? A:-Yes sir,I think so. I think it was in '38 It was after we left Far West.

367 Q:-Well how long did you stay at Quincy Illinois? A:-Well I can't say. It was but a very short time.

368 Q:-Then where did you go? A:-After i left Quincy?

369 Q:-Yes sir? A:-I went up to Commerce as it was called then,but it was afterwards known as Nauvoo.

370 Q:-Commerce was in Illinois? A:-Yes sir.

371 Q:-Then how long did you stay there? A:-We staved thee but a little time before we crossed the river into Iowa.

372 Q:-What place did you go to in Iowa? A:-Montrose.

373 Q:-What year did you get to Montrose? A:-It was the first year that we went up there.

374 Q:-That was in 1838 I believe you stated. A:-I guess so.

375 Q:-Well are you pretty positive of that,-I am asking you for your best recollection now? A:-I think that was the year. That is my best recollection of the time.

376 Q:-Well that was in '38 was it? A:-I think so. Well now I think it was in '39 or pretty near in '39 when we got in there. We were rumbling about for quite a while one place and another looking for a place, stubbing our toes against things.

377 Q:-Well was it in '39 or '38 that you settled there in Iowa,-I would like for you to come as near it as you can? A:-Well I think now it was in '39. I know I was there about that time but I can't tell exactly when it was.

378 Q:-Well when were you ever in Nauvoo,-where was Nauvoo from where you lived in Iowa? A:-Well it was just across the river. It was not very far away for you could go over to Nauvoo in the morning and get back before breakfast if you wanted to.

379 Q:-Well did you ever live in Nauvoo? A:-I did.

380 Q:-Well when did you go to Nauvoo to live? A:-Well it is my best recollection that we went there about 1841.

381 Q:-That is when you first heard the doctrine of polygamy talked,-when you went over to Nauvoo to live in 1841 was the time when you first heard that doctrine talked was it not? A:-Well I don't know about that.

[illegible] Q:-Do you mean to say that you do not know about that? A:-I [illegible] it.
[illegible] Q:-[illegible] A:-I could not tell you [illegible] have heard so [illegible] that I really couldn't [illegible].
[illegible] Q:-You don't know [illegible] before that or not? A:-I [illegible].
[illegible] Q:-[illegible] it that you [illegible] come to [illegible]? A:-[illegible] it then I guess, [illegible] afterwards [illegible].
[illegible] Q:-[illegible] it before? A:-I [illegible].
[illegible] Q:-[illegible] it? A:-[illegible].
[illegible] Q:-[illegible]? A:-Let me see where [illegible] I guess.
[illegible] Q:-You [illegible] in [illegible]? A:-[illegible].
[illegible] Q:-[illegible] you heard it? A:-I [illegible]?
[illegible] Q:-[illegible] A:-Let me see,-I [illegible] I guess,- [illegible].
[illegible] Q:-[illegible] you heard [illegible] A:-My best [illegible] time,but I [illegible].
[illegible] Q:-[illegible] denoun- ce [illegible] and [illegible]?
[illegible] asked [illegible] that it [illegible] not [illegible].
[illegible] A:-I [illegible].
[illegible] Q:-[illegible] it? A:-Not [illegible] I [illegible] heard [illegible].
[illegible] Q:-[illegible] did [illegible] it [illegible]?
[illegible] asked [illegible] ent,ir- [illegible] examination.
[illegible] Q:-A[illegible] question,-don't [illegible] that too? A:-[illegible]?
[illegible] Q:-I [illegible] the church did denounce the practice of polygamy or the plural or [illegible] between Tom and Dick? Answer the question? Are you [illegible] the question? A:-[illegible] patient. I am trying to call up those things. It was in '44 that the prophet died. That was the [illegible] I believe. My head [illegible] over too.
[illegible] Q:-I [illegible] when you was being [illegible]? A:-Well, I don't know.
[illegible] Q:-Don't [illegible] denounce it and publish it,and by resolution it was put in the book of doctrine and covenants. Don't you know that? [illegible] asked [illegible] that it is incompetent,ir- [illegible] not cross examina-

tion,and for the further reason that the witness has explicitly stated that he did not know.
A:-The dates is what bothers me you see. I can't remember dates at all any more.
399Q:- Well you know it was denounced by the church at some time,don't you?
By Mr.Cabell,-"The witness has stated emphatically that he does not know,and I object to this kind of cross examination,-so called,-on the ground that it is uncalled for,and a deliberate attempt to badger the witness into saying something that he does not know of his own knowledge."
By E.L.Kelley,-
400 Q:-The church did denounce the system of polygamy or its practice did it not at some time,and that too before the death of Joseph Smith?
Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not proper cross examination.
A:-The trouble with me is that I can't date it.
401 Q:-You can't think of it? A:-I can't satisfy myself on that point as to the date.
402 Q:-Well I am not asking you anything on that date,-I am not asking you anything on the question of date,-I asked you if the church did not officially denounce the practice of polygamy and the doctrine at some time,before Joseph Smith was killed or died,without reference to any particular date? A:-Well that is the point I can't satisfy myself on.
403 Q:-Now to refresh your recollection I will read a paragraph here. It is the fourth paragraph of section onehundred and one on marriage,in Exhibit "B" on page two hundred and fifty one in this same book of covenants that you were looking at and identified,-" "All legal contracts of marriage made before a person is baptized into this church shall be held sacred and fulfilled." Did you ever hear that before?
A:-Yes sir,and behind too.
404 Who read it to you behind? A:-Well you know what I mean. I have heard the sound of it before.
405 Q:-I will go on and read the balance of the paragraph "Inasmuch as this church of Christ has been reproached with the crime of fornication and polygamy,we declare that we believe that one man should have but one wife,and one woman but one husband,except in case of death,when either is at liberty to marry again." Was that not the doctrine of the church in 1840? A:-Well I don't know. I can't give the dates for that is what bothers me now.
405 Q:-Well you know that that was the doctrine of the church up to the time that Joseph Smith died didn't you? A:-You mean it was practiced in the church?
406 Q:-I mean this was the doctrine of the church? A:-What?
407 Q:-What is contained in this book here that I have been reading out of? That contained the doctrine of the church up to the time of Joseph Smith's death did it not?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immateria

not proper cross examination,and for the reason that the witness has stated that he did not know.

408 Q:-Answer the question? A:-Well I said I don't know.

409 Q:-You don't know you say,and yet you were an older in the church and an high priest? A:-I was an elder I guess,but I don't know about the high priest part of it.

410 Q:-Well were you not also an high priest? A:-It is like enough.

411 Q:-And a bishop? A:-Yes sir,and a bishop.

412 Q:- In the fifth ward in Nauvoo? A :-Yes sir. I see you have got it right.

413 Q:-Well now do you say this was not the law of the church at the time that Joseph Smith died?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevent and immaterial,and not cross examination.

414 Q:-Well I will modify that question,-do you say this was not the law of the church,-that you did know this was the law of the church at the time that Joseph Smith died? A:-Yes sir,I don't know anything about it.

415 Q:-Then you say you did not know this was the law of the church at the time that Joseph Smith died,when you were a bishop,and a high priest and elder,and had a right to teach the people that the law of the church was?

Counsel for the defendant objects to the question asked the witness on the grounds and for the reasons above set forth.

A:-I was not much of a scholar,and I guess I did not go to the book.

416 Q:-Then you did not teach the law of the church out of the book? A:-I guess not.

417 Q:-Why not? A:-I guess I had enough without.

418 Q:-You had enough to teach without going to the book for your law,-you knew enough without that? A:-Yes sir,I suppose so.

419 Q:-Well what did you teach,-this law or some other law? A:-I taught every man to mind his own business devilish close.

420 Q:-That is that you taught every man? A:-Yes sir,and that was good teaching too I think.

421 Q:-You say you taught every man to mind his business devilish close? A:-Yes sir.

422 Q:-You are an elder in the church now? A:-I am I guess.

423 Q:-And you use language like that,-an older in the church here can use language like that? A:-Sometimes there is occasion to use it I think.

424 Did you teach publicly or privately there at Nauvoo that a man could have more wives than one? A:-I did not.

425 Q:-You did not teach that either publicly or privately A:-No sir,I did not teach anything of the kind.

426 Q:-Why not? A:-Because as I said it was not taught publicly,-it was a private matter.

427 Q:-Then you did not teach it? A:-No sir,I guess not,-not much I did not teach it. I don't think I did but I can't remember. My head hurts me when I try to think of these things that I can't remember.

428 Q:-When I ask you these questions it makes your head hurt? A:-Sir?

429 Q:-It did not make your head hurt a little bit when Hall asked you these questions? A:-It did some.

430 Q:-It made it hurt some,but not as bad as when I ask

you the same question? A:-You ask so many foolish nonsensical questions that it would make anybody's head hurt to answer them I think.

431 Q:-You said that you did not teach that? A:-I think not.

432 Q:-Well you recollect whether you did or not,don't you? A:-Yes sir.

433 Q:-Well then answer the question as to whether you taught that a man could have more wives than one? A:-No sir,I don't thing I did teach that.

434 Q:-Well if that was the doctrine and practice of the church,why didn't you teach it? A:-Well I guess it wasn't safe for a man to do so,and you had to be careful as to what you taught.

435 Q:-Did you hear Joseph Smith teach the church,during his lifetime either publicly or privately that a man could have more than one wife? Did you hear him teach that? A:-What is the question?

436 Q:-Did you hear Joseph Smith teach the church either publicly or privately at any time,that a man could have more wives than one? A:-I heard him,-

437 Q:-Answer the question yes or no,-did you hear Joseph Smith at any time or place prior to his death of course,teach the church either publicly or privately that a man could have more wives than one? I ca answer that question fair and square? A:-Yes sir --the principle.

438 Q:-Answer that question? A:-I have answered it.

439 Q:-Do you have not,and I insist upon an answer,and ask that the Examiner compel this witness to answer these questions fairly and to the point. He knows how to answer them,and I insist that he be made to do so.

By the Examiner,-

440 Q:-Mr Kelley has asked you if at any time or place during Joseph Smith's life time you ever heard him teach the doctrine that a man could have more wives than one? Now that is a simple question and can be answered either affirmatively or negatively? A:-The principle was taught,-there is no doubt of that.

By Mr.Kelley,-

441 Q:-Will you answer the questions that I put to you? A:-How is that?

442 Q:-Did you hear Joseph Smith teach the principle, publicly or privately,-that is,teach the church I mean,-the principle of plural marriage,and that a man could have more wives than one? A:-I guess it was privately.

443 Q:-Well did you hear him teach the church that principle,either publicly or privately? A:-The date is what I am troubled about.

444 Q:-Well I am not asking you a thing on earth about the date,-I put at any time before his death,-at any time from 1830 up to 1844. Pick your own time any where within these limits? A:-Yes sir,the principle was taught.

445 Q:-Taught to the church was it? A:-It was taught privately.

446 To the church was it taught,-do you say it was taught privately to the church? Answer the question sir? A:-Well let me see how that comes in. The date is what bothers me.

447 Q:-I have stated to you Mr. Witness repeatedly that I don't care about any date. I don't ask you and I dont want you to fix any specific date,-but simply to answer whether or not you heard Joseph Smith teach that principle to the church at any time or place publicly or privately during his lifetime. You can pick your own time if you like,but I don't care whether you do it or not? A:-Yes sir,he taught the principle.

448 Q:-Did he teach it publicly or privately? A:-Privately I think it was.

449 Q:-Did he teach it to the church? A:-To individuals in the church. There is no doubt of that. I guess I had better put it that way.

450 Q:-What way? A:-That he taught it to individuals in the church.

451 Q:-Then he did not teach it to the church to your knowledge, did he? A:-Oh he taught a good many things.

452 Q:-Well did he teach the practice of polygamy to the church to your knowledge? A:-He taught it to individuals who were members of the church.

453 Q:-Don't you know that he did not teach it to the church at all? A:-I guess that is better.

454 Q:-You guess that is better? A:-Yes sir.

455 Q:-Then you don't know that he did teach it publicly to the church? A:-He taught it privately.

456 Q:-You know that he did not teach it to the church as a church either publicly or privately, don't you? Don't you? Don't you know that? A:-I know that he ~~tau~~ taught it to individuals in the church.

457 Q:-You don't you know that he did not teach it to the church either publicly or privately,-no answer that question, will you please? Answer that question either yes or no, if you please? A:-My dearie, my head feels so terrible bad I am about sick.

458 Q:-Your head feels terrible bad? A:-Yes sir, the way you talk makes it rumble so I can't think of any thing.

459 Q:-My questions make your head rumble don't it? A:-Yes sir, it makes it rumble all through,-darned if it don't.

460 Q:-Get that down Examiner "I'll be darned if it don't" A:-Yes sir, I'll be darned if it don't. You can put it down a dozen times if you please.

461 Q:-I can see no difficult trouble when I say anything but you A:-Yes sir. I know that I am perfectly [illegible], but you holler so loud that it makes my head [illegible].

462 Q:-[illegible] not asking I was talking so loud, but I will ask you if [illegible] in in a quiet tone of voice,-do you over [illegible] Joseph Smith teach the doctrine or practice of polygamy to the church, either publicly or privately,-you understand that, don't you? A:-Yes sir.

463 Q:-Well [illegible] you [illegible] way of answer? A:-I'll do the principle. I have said that fifty times I think.

464 Q:-Do [illegible] I mean? A:-He taught the principle I say.

465 Q:-Mr. [illegible] will you answer me a fair square question A:-Yes sir, or a round one either if I can.

466 Q:-Then why don't you do it? A:-I will do it if I can conscientiously do so. I am trying to study it [illegible] if I can conscientiously do so.

467 Q:-Well conscientiously I am asking you that question and I will state right here that I propose to [illegible] to answer to it if I have to stay here all week. I know my legal rights, and I am not going to be evaded. I would like you to state if you ever heard Joseph Smith teach the church either publicly or privately the practice of polygamy,-that is, that a man could have more wives than one? Now I am not asking you what he said to John or Thomas or to Betsey Jane or Sarah, but what he said to the church? A:-He taught things to the church that rules, the key was turned on their minds you could not know a darned thing about what he was driving at.

468 Q:-Well I move to strike out all that answer except the word "darned." A:-What a comfortable place this is for a sick fellow.

469 Q:-And let the record show that the party that uses such language is an elder in this church out here in Utah? A:-Yes sir,let the record show that. Oh I don't wrap a Pharisaical coat around me and say I am not like that other fellow,for I swear frequently when I am driven to it. I have sworn or affirmed before this frequently when I was on the stand,for I am rather a plain dealer,or used to be. I don't like to do it though,for it is not right you know,but we are all weak,and I am especially so perhaps.

470 Q:-You feel pretty bad over it do you? A:-Yes sir, pretty bad.

471 Q:-You felt pretty bad the other day didn't you when you went off to the witness stand didn't you? A:-I felt mighty glad when I got off it.

472 Q:-You were very glad that day? A:-Yes sir,I did not feel as well as I could like to feel.

473 Q:-Yet you were able to run a quarter of a mile to catch a train, and not nearly all the boys were to do so? A:-Oh,no,-I was a little sick that time and I could do it,but not now.

474 Q:-You ran from the Springs to the railroad to catch it didn't you? A:-To the railroad?

475 Q:-Yes sir,-up to the railway depot to catch the train. Didn't you run like a colt to do so?

Counsel for the defendants objects to this line of examination for the reason that it is irrelevant,immaterial,and not cross examination.

A:-I can't tell you.

476 Q:-Don't you not think you did a lot of getting standing on the platform waiting for Beck's for Springs to come and take the train,and you laughing to see him coming and saying that you could beat anybody in the town in.

Counsel for the defendants objects to the question and statement for the reason that the witness above stated.

477 Q:-Is that not so? A:-Ah,Shaw now,-that is all a joke,

478 Q:-Don't you not you run all the way from the depot to the hall? A:-I did have stopped a little over halfway and rested for a while,but I came as near being winded up as I ever could. I didn't go limber as I used to do,for I have seen the time I couldn't stand to fall out of a wagon like you all do it now days. Come out too. When I was young I was one of the boys I can tell you.

479 Q:-Well you may be,-what you can do by not in that you don't run all day? A:-No sir.

480 Q:-Well now I am in a good humor this morning,for I know you are too,but I would like for you to answer my questions? A:-Well I would like to do so too,and I would if I could consistently.

481 Q:-Was there any publication that you know of in Nauvoo,denouncing polygamy? A:-When?

482 Q:-At any time from the church was there,and before the death of Joseph Smith? A:-Denouncing polygamy?

483 Q:-Yes sir,while you were there? A:-When I was there?

484Y Q:-Yes sir,when you was there,acting as an Elder, priest,and bishop and elder and teacher in the church? A:-Well sir,I have forgotten most all that I ever did know,-I was going to say,-

485 Q:-Don't you know that there was,and that it was published in the Times and Seasons?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not the best evidence nor cross examination, and on the further ground that the witness has repeatedly stated that he did not know.
A:-What time?
486 Q:-Well my question includes any time, but for your information or enlightenment I will say it was in '42 A:-I can't say positively that I [illegible].
487 Q:-Well you recollect such a publication, don't you,- you recollect such a publication being made, don't you? A:-Well if it was not a publication [illegible] talk, [illegible], or [illegible], of that kind [illegible] [illegible], [illegible] not [illegible] I could not [illegible] it.
488 Q:-You [illegible] it was publicly denounced [illegible] don't you?
Counsel for [illegible] objects [illegible] question [illegible] not [illegible].
489 Q:-You [illegible] it was publicly denounced [illegible] some time in 1842, don't you? A:-In 1842?
490 Q:-Yes [illegible]? A:-Well [illegible] I can't, [illegible], for [illegible] so surrounded [illegible] I [illegible]. It beats all,-it really does.
491 Q:-You [illegible] [illegible] Seasons [illegible] didn't you? A:-I used to read it [illegible].
492 Q:-[illegible] to [illegible] detailed in [illegible] don't [illegible]? A:-I don't know [illegible] or [illegible] it [illegible].
493 Q:-Well [illegible] Seasons? A:-Of course I [illegible] I [illegible].
494 Q:-At [illegible] you lived [illegible] in Nauvoo? A:-Yes sir.
495 Q:-Well I want to read [illegible] to refresh your recollection? A:-Well [illegible] it.
496 Q:-[illegible] October number [illegible] of the Times and Seasons,-October 1st 1842,-can't you see that (hand- [illegible])? A:-No sir.
497 Q:-[illegible] can't [illegible]? A:-No sir.
498 Q:-Can't you [illegible] big letters [illegible]? A:-"Times [illegible] Seasons."
499 Q:-[illegible]? A:-Yes sir.
500 Q:-And [illegible]? A:-Yes sir I [illegible].
501 Q:-[illegible] the next line? A:-"City of Nauvoo." is it not?
502 Q:-Yes sir. [illegible] the next line? A:-I can't do it.
503 Q:-Can't you read that? A:-No sir.
504 Q:-Is it not Saturday October 1st 1842? A:-It looks like it. I believe that is what it is.
505 Q:-[illegible] it not? A:-It looks like it very [illegible].
506 Q:-Now I want to read [illegible] hundred and thirty nine for [illegible] to refresh your recollection,-"We the undersigned members of the Church of Jesus Christ of Latter Day Saints, and residents of the City of Nauvoo, persons of families, do hereby certify and declare that we know of no other rule or system of marriage than the one published from the Book of Doctrine and Covenants and we give this certificate to show that Dr. J. C. Bennett's "secret wife system" is a creature of his own make, as we know of no such society in this place nor never did." How do you recollect that?

sir,I believe so.

525 Q:-What about Albert Potter? A:-That name is familiar to me.

527 Q:-You know he also didn't, you? A:-I believe so,but I couldn't be sure.

528 Q:-And Elias Higbee,you knew him? A:Yes sir.

529 Q:-Do you recall you called Judge Higbee there at Nau-voo? A:-Yes sir.

530 Q:-In Nauvoo? A:-Yes sir.

531 Q:-Was there also a Judge of the Court of Probate at Nau-voo? A:-Yes sir.

532 Q:-Do you remember the occasion of your being out Beyond Young, no succeeded Hoe A:-Yes sir.

534 Q:-Do you remember conversation,-you know it was? A:-Hence-

535 Q:-Yes sir,-a conversation? A:-Was made around fenilia- acquainted with the town.

536 Q:-Will you look at the [illegible] A:-[illegible] I believe I know it, one. I know it seen [illegible] at any rate, [illegible] I know it [illegible] that.

537 Q:-Will that was a conversation, is it not? A:-I believe so.

538 Q:-In Aaron Johnson,-didn't you [illegible]? A:-He [illegible] to me.

539 Q:-[illegible] A:-[illegible] I know [illegible] I don't know

540 Q:-[illegible] A:-Yes sir.

541 Q:-[illegible] A:-Yes sir.

542 Q:-[illegible] A:-Yes sir, [illegible]

543 Q:-[illegible] A:-Yes sir.

544 Q:-[illegible] A:-I don't recall it, [illegible] I know

545 Q:-Do you say not that you did not read that in the [illegible] I don't remember anything about it. A:-No sir. I say

546 Q:-Will you [illegible] to you [illegible] give you two [illegible] I will ask you if it was true or false [illegible] day of October 1842 that there was no [illegible] marriage taught in the church, or [illegible] book of doctrine and covenants? A:-I don't know whether there was or not.

547 Q:-You don't know anything about it,is it, [illegible] you say? A:-Yes sir.

548 Q:-Will you don't think that Wilford Woodruff would

have signed his name to a declaration of that kind unless it had been true,do you? A:-What is that?
540 Q:-Cannot you hear that I say,-am I not speaking loud enough? A:-Well yes,I guess there is a rumbling in my head that prevents me from hearing very well.
550 Q:-I asked you if you think that Wilford Woodruff,the President of your church here,would have signed his name to a declaration or affidavit of that kind if it had not been true? A:-No sir.
551 Q:-A declaration declaring that there was no such a doctrine or principle taught, or practiced in the church as plurality of wives,or the secret wife system of John C. Bennett,or any thing of that kind, if it had not been true? A:-No sir.
552 Q:-Well now I want to refresh your recollection a little further and read you another one that is signed by sixteen women,all of whom I think you will know when I read their names? A:-I don't know that I will.
553 Q:-Well I will read it and see if you do,-"We,the undersigned members of the ladies relief society,and married females,do certify and declare,that we know of no system of marriage being practiced in the church of Jesus Christ of Latter Day Saints save the one contained in the book of doctrine and covenants, and to give this certificate to the public to show that J.C.Bennett's "secret wife system" is a disclosure of his own make" Now that is signed by the following ladies,-Emma Smith,president.,Elizabeth Ann Whitney,counselor.,Sarah M.Cleveland,counselor.,Eliza R.Snow,secretary.,Mary C.Miller.,Lois Cutler.,Sarah Pulsipher.,Ann Hunter.,Jane Law.,Sophia R. Ripes.,Polly M.Johnson.,Abigail Works.,Catherine Lewis,-Sarah M.Lee.,Diana Woodruff,-Lenora Taylor, Sarah Williams.,Rosanna Marks.,Angeline Johnson." By J.C.Bell.,-"We make the same objection to the reading of this certificate as we made to the former one." By Mr.P.P.Kelley,-
554 Q:-Do you recollect any thing about that being added at the time? A:-Yes sir.
555 Q:-You recollect that? A:-I recollect something about it.
556 Q:-You recollect something about this one? A:-Yes sir.
557 Q:-Was this signed by Emma Smith? A:-Yes sir,so it says.
558 Q:-She was the president of that society? A:-Yes sir.
559 Q:-And you know her? A:-Yes sir.
560 Q:-She was the wife of Joseph Smith the prophet? A:-Yes sir.
561 Q:-And Elizabeth Ann Whitney,a counselor to the president,you also know her? A:-Yes sir.
562 Q:-And Sarah M.Cleveland,another counselor to the president,you also know her? A:-Well I don't say that I know her but I have heard of her name.
563 Q:-And Eliza R. Snow,the secretary,-you know her also A:-I know her well.
564 Q:-And Mary C.Miller,-you know her didn't you? A:-Mary,yes?
565 Q:-Mary C.Miller,-you know her also? A:-I was not so acquainted with her.
566 Q:-And Lois Cutler,-you know her? A:-The wife of Alpheus Cutler?
567 Q:-Yes sir? A:-I heard the sound,-but I knew Alpheus Cutler well.
568 Q:-And Thirza Cahoon,-you know her? A:-These were members of the relief society?
569 Q:-Yes sir,that is what I am reading you,-the names of certain members of the ladies relief society that were signed to this certificate?

A:-Yes sir.

570 Q:-You know Thirza Calhoun? A:-I guess I did.

571 Q:-And Ann Hunter,-you know her also? A:-Well I recollect the name. It sounds familiar.

572 Q:And Jane Law,-you know her also? A:-Law?

573 Q:-Yes sir? A:-Yes sir.

574 Q:-And Sophia B. Parks? A:-The name Parks is familiar to me. I think it is probable that I know her and all the rest of them.

575 Q:-And Polly W. Jennings,-that name is familiar to you, also is it not? A:-Not, since at the point of time. I don't know that I ever.

576 Q:-Well, can you tell us how Abigail works? A:-Well it seems to me that I have heard the sound of that name but I can't recollect anything about it either.

577 Q:-Sarah Pettey,-did you know her too? A:-Not, never.

578 Q:-Sarah Bishop,-did you know her? A:-I have heard the name,-some of them,-some of them I remember seeing, the rest of them I don't remember about, and of course I have heard the sound of their names but I don't recollect, I don't recollect anything about them.

579 Q:-[illegible] of Dunstable,-you know, you? A:-Yes sir, I am a [illegible].

580 Did you know Mary Woodruff? A:-Yes sir.

581 Q:-Is it the wife of President Woodruff? A:-Yes sir [illegible] wife at that time.

582 Q:-[illegible] Taylor,-you [illegible] Taylor? A:-Yes sir.

583 Q:-[illegible] Gillman,-did you know her? A:-Yes, so well.

584 Q:-[illegible] of William [illegible],-did you know her also? A:-I know the name, I do not recollect very much about it really.

585 Q:-And Angelina Robinson,-did you know her? A:-Not, [illegible].

586 Q:-Did you know most of these ladies at that time who signed the certificate,and the gentlemen who signed it, as a rule all of them,-twenty one in number,-the very [illegible], the system of polygamy at that time existing, that there was no such principle that in the church at that time,were they not accusing the same certificate that I have read to you? Counsel for the defendants objects to the question asked, upon the ground that it is immaterial, irrelevant and incompetent, and not cross-examination, and on the further ground that it calls for an opinion of the witness on a matter material to the decision of the witness or answer which the jury could not, on the best evidence.

587 Q:- Well you read it in the paper,did not you? A:-Not, [illegible].

588 Q:-Not know? A:-No sir.

589 Q:-Well you read it a little didn't you? A:-I don't recollect.

590 Q:-If you did not read it yourself,or if you cannot recollect that, or if not you read it yourself,you at least that you heard it read,don't you? A:-If I [illegible] don't call it up now.

591 Q:-Well now did you know it all the time,-did you know that all those parties whose names I have read were lying about it? A:-No sir,I don't know that.

592 Q:-You have stated that Joseph Smith taught it privately to individuals members of the church long prior to that time,and if that was so if it not a fact that what these parties subscribed their names to were was a lie and false and they knew it?

A:-No sir,I don't know it.

Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons that it is immaterial and incompetent,and calls for an opinion of the witness.

593 Q:-You don't know whether they were or were not?
A:-No sir. Were they denouncing it,-all those people?

594 Q:-Yes sir,they were all of them denouncing it. Let me read it to you again,and see whether you say it was denouncing it or not,-"We,the undersigned members of the church of Jesus Christ of Latter Day Saints, and residents of the city of Nauvoo,persons of families,do hereby certify,and declare that we know of no other rule or system of marriage than the one published from the book of Doctrine and Covenants, and we give this certificate to show that Dr.J.C. Bennett,s "secret wife system" is a creature of his own make,as we know of no such society in this place nor never did." Now the one signed by the member of the ladies relief society is almost identical in language with that. Now that was denouncing all other systems excepting the one in the book of Doctrine and Covenants,wasn't it?

Counsel for the defendants objects to the question put to the witness on the ground that it calls for an expression of opinion from the witness when he is here to testify as a witness regarding facts within his knowledge,and is irrelevant and immaterial,and not cross examination.

595 Q:,-Well what do you say about that,-was that denouncing it?

Counsel for the defendants objects to the question for the reasons above set forth.

596 Q:,-What do you say to that? Can't you answer that question? Q:-No sir.

597 Q:-Why not? Is it because your head is muddled again?
A:-Yes sir,My head is muddled again,and I don't feel a bit well.

598 Q:-Now do you know of any instance in which a woman who was not a member of the church was taken as a plural wife? A:-What was not a member of the church?

599 Q:-Yes sir? A:-Well I don't call up any.

600 Q:-

601 Q:-When did you say the other day that Louisa Beeman was sealed to Joseph Smith? A:-When?

602 Q:-Yes sir? A:-Let me see,that was in,-I can't remember that.

603 Q:-Well you ought to remember that,for you said you were the elder that performed the ceremony? A:-Yes sir.

604 Q:-Well when was it? A:-Well I was trying to call it up.

605 Q:-Well call it up and tell us when it was? A:-Well that was in '42 I think.

606 Q:-You think today it was in '42 do you? A:-Or was it in '41,-I am not certain.

607 Q:-Well I am not so certain that it was then,or whether it was at all,for that is what I am trying to get from you? As far as I am concerned I have no hesitation in saying that I don't believe it ever did occur? A:-Yes sir,it did,but I am not certain of the time. There comes in again the question of dates,and that is what I can't remember.

608 Q:-Well when was it? A:-Well it was in '41 or '42 some where.

609 Q:-Well now was it in either one of these years?
A:-Yes sir, It is difficult for me to remember,but I am pretty sure it was in either one of these years

610 Q:-Well which one of them was it in? A:-Well now that is what I don't remember. I think it was in '41 but it might have been in '42.
611 Q:-Now you said the other day positively that it was in '40,-I would like you to reconcile the statement you make now with that?
A:-Did I say '40?
612 Q:-That is what you said? A:-That he was sealed to her?
613 Q:-Yes sir,that is what you said,that it was in 1840 and that you performed the ceremony? A:-Well I am inclined to think it was a little later than that.
614 Q:-You think now that it was a little later than 1840 A: Yes sir.
615 Q:-The other day you said it was, when you lived in Iowa? A:-Yes sir,it was in Iowa. It was when I lived across the river in Iowa at Montrose.
616 Q:-And you said that you went across to Nauvoo to live in 1841,and that it was when you lived in Iowa prior you moved to Nauvoo,so it must have been in 1840? A:-Well I did live in Iowa in '40.
617 Q:-I know that and you did the other day that the marriage occurred ~~[illegible]~~ in your house,and that you performed the marriage ceremony?
A:-No sir.
618 Q:-You did not? A:-No sir.
619 Q:-Do you stand positively now that you did not say that? A:-That it was performed in my house?
620 Q:-Yes sir? A:-No sir I did not say any such a thing.
621 Q:-You said the marriage ceremony was performed at your home in Montrose across the river in Iowa from Nauvoo,-you said that they were married there, and that you performed the marriage ceremony? A:-No sir,it was not performed there.
622 Q:-Now you want to go back on that date? A:-Well I don't care about the date,-that is a mistake.
623 Q:-You want to go back on that date do you? A:-Let me see the date and I will tell you.
624 Q:-Let me find about the date,-was the ceremony not performed at your house in Montrose,Iowa,just across the river from Nauvoo,and do you not so testify that they or direct examination? A:-I must have come over there to Nauvoo in '41 or about that time.
625 Q:-I did not ask you that,-I asked you if you did not testify on direct or examination the other day that you married Joseph Smith to your sister-in-law,Louisa Beaman in your house across the river in Iowa from Nauvoo? A:-Well if I did I must have been mistaken and did not understand the question.
626 Q:-I will ask you that question and I want you to answer it squarely so that you can be got on record some day in the question? Did you not marry Joseph Smith and Louisa Beaman over at Montrose in Iowa in your house where you lived at that time before you moved over to Nauvoo? A:-No sir it was not performed there. It was performed on this side of the river.
627 Q:-Do you mean that it was performed in Nauvoo? A:-Yes sir.
628 Q:-At whose house? A:-At mine.
629 Q:-Who was present? A:-My family.
630 Q:-Who besides yourself and Louisa Beaman,your daughter or was she your daughter? A:-For then hold on a ~~lit~~ little and let me explain.
631 Q:-Well I think you could tell whether or not she was

your daughter or not without any explanation,-for that is something that does not require explanation? A:-Who was that?
632 Q:-Louisa Beeman? A:-She was my sister-in-law.
633 Q:-Your wife's sister? A:-Yes sir.
634 Q:-Well she was present at that time wasn't she? She was present at the time? A:-Well she would be very likely to be present,I think.
635 Q:-Louisa Beeman was present then? A:-Of course she was.
636 Q:-And your wife was also present? A:-Yes sir.
637 Q:-Is your wife living? A:-No sir. Well I have that a little mixed up.
638 Q:-You have become a little mixed up? A:-Yes sir.
639 Q:-You don't want to say that your wife was present? Is that it? A:-Yes sir. She was there,but I am a little [illegible] the time we moved over there,but by [illegible] I went back across the river again that [illegible] marriage [illegible] ceremony.
640 Q:-You [illegible] over [illegible] elder to perform that ceremony? Is that it? A:-Yes sir.
641 Q:-Joseph Smith [illegible] over [illegible] ceremony? A:-[illegible]
642 Q:-Well did he [illegible] somewhere,and [illegible] over [illegible] it? A:-Well I can't say [illegible]. I know I performed it.
643 Q:-[illegible] time and eternity? A:-For time and eternity.
644 Q:-[illegible] and eternity? A:-Yes sir.
645 Q:-[illegible] time and eternity? A:-Yes sir.
646 Q:-Well that was in '41 wasn't it? A:-Yes sir,some time in '41 or '42.
647 Q:-[illegible] it,-'41 or '42? A:-Well I have tried to study it over,and [illegible] it was.
648 Q:-Well it was either '41 or '42 was it not? A:-It was thereabouts.
649 Q:-Well '42 would be thereabouts? Which year was it? A:-It was before that.
650 Q:-Before that time? A:-Before that time.
651 Q:-Do you think it was before '42? A:-Yes sir.
652 Q:-It was before '42 was it not? A:-Perhaps it was.
653 Q:-Don't you know it was in '41? A:-I am inclined to think it was [illegible] about.
654 Q:-You are inclined to think it was in '41 or thereabouts? A:-Yes sir.
655 Q:-Well after you had performed that ceremony you [illegible] statement [illegible] I [illegible] do you denounce [illegible] the statement [illegible] any such thing was practiced in the church?
Counsel for the defendants object to the question asked the witness on the ground that "the witness has [illegible] does not remember."
A:-I don't remember any thing about those things [illegible].
656 Q:-You don't know of it? A:-Of course?
657 Q:-Of these declarations or certificates that were published? A:-I heard the same somewhere.
658 Q:-Don't you know that the church was denouncing plural marriage in 1842? Don't you know that to be a fact, Mr. Witness? A:-Oh,the church did you say?
659 Q:-Yes sir,that the church was denouncing plural marriage in 1842? A:-In 1842?
660 Q:-Yes sir? Answer that question? A:-I don't remember

(ЛЬВІВ: ЗОРЯНА А СОНЦЕ ЗОРЯ ЛОГ.

667 :-You now have had enough time to decide. Do you want to
[illegible] A:-Yes, sir.

668 :-You [illegible] A:-Yes, sir.

669 :-[illegible] A:-[illegible]

670 :-Yes, [illegible] A:-[illegible] I W[illegible] again.

671 :-After [illegible] Have you [illegible]

672 :-[illegible] A:-[illegible] I did. I did?

673 :-[illegible] A:-[illegible] was [illegible]

674 :-[illegible] A:-[illegible] of [illegible]

675 :-[illegible] A:-[illegible] [illegible]

676 :-[illegible] A:-[illegible] [illegible]

677 :-[illegible] A:-[illegible] [illegible]

678 :-[illegible] A:-[illegible] [illegible]

679 :-[illegible] A:-Yes, [illegible]

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683 :-[illegible] A:-[illegible] [illegible]

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nation, and is a deliberate attempt to mislead the witness as witness has not stated any such a thing.
685 Q:-That is just precisely what you said, and I am not attempting to mislead you at all. How is that now? Answer the question and tell me how that is?
A:-Put the question again.
686 Q:-You said the other day that the night you married that they slept together, and now today you say after you married then you went across the river and did not stay there that night? Now I want you to answer this plain square question. Did he sleep with her the first night after the ceremony was performed?
A:-He did.
687 Q:-Now you say that he did sleep with her? A:-I do.
688 Q:-How do you know he did? A:-Well I was there.
689 Q:-Did you see them go to bed together? A:-I gave him counsel.
690 Q:-What counsel did you give him? A:-I said "blow out the light, and get into bed, and you will be safer for you" and he took my advice or counsel. (Witness laughs heartily.)
691 Q:-Let the record show that this witness is applauding himself upon the strength of his answer.
By Mr. Cobell,-"I object to that because there is no evidence of it, and it is one that cannot and should not go on the record."
By Mr. Kelley,-
692 Q:-You have spoken here today, that the day you performed that marriage ceremony, or whatever ceremony it was, that you went back across the river, and were not there at all? A:-I was there in advance at the time.
693 Q:-You went across the river did you not,-is that not what you said? A:-Yes sir, but I told him that.
694 Q:-You told him that in the day time? A:-No sir.
695 Q:-Well then was it you told him that? A:-It was in the night time.
696 Q:-What time in the night was it? A:-That I married them?
697 Q:-[illegible] sir? A:-Well it was in the night sometime,-I can't tell you the exact time.
698 Q:-Tell me, was it about six or seven or eight o'clock? A:-Yes sir, somewhere along there.
699 Q:-Well which was it,-six or seven or eight o'clock? A:-I can't tell you.
700 Q:-Tell me you stay there until the lights were blown out? A:-No sir I did not stay until they blown out the lights then.
701 Q:-Well you did not have him get into bed with her that, did? A:-No sir.
702 Q:-And so you don't know whether he followed your advice from your own knowledge or? A:-No sir, I did not go him, but he told me he did.
703 Q:-Well do you know from your own knowledge that he did? A:-Well I be confident he did.
704 Q:-But, you don't know it of your own knowledge from again he did it? A:-No sir, for I was not there.
705 Q:-Did you talk with Smith there? A:-No sir.
706 Q:-Did she know anything about it? A:-No sir, I think not.
707 Q:-Were they married at his house? A:-No sir.
708 Q:-Where were they married,-were they married at your house? A:-Well it was a house that I had rented,-or a house that I owned bye the bye, for I owned a whole block there that I had bought.
709 Q:-Your family did not live there then? A:-Not then, but they did directly after that, for they moved there after that.

710 Q:-Did you not say two or three day that you married
[illegible] in your own house, and that house became was
there, and that your wife was also there? A:-Well it
was my house, and house was there of course, also she
could not have been married to him.
711 Q:-Did you not say the other day that your wife was
also there? A:-Well I do not think afterwards for she
[illegible] afterwards.
712 Q:-Did you not say the other day that your wife was
there and your family at the time you married them?
A:-[illegible] afterwards.
713 Q:-[illegible] A:-[illegible]
714 Q:-[illegible] A:-[illegible]
715 Q:-[illegible] A:-[illegible]
716 Q:-[illegible] A:-[illegible]
717 Q:-[illegible] A:-[illegible]
718 Q:-[illegible] A:-Then
719 Q:-[illegible] A:-Do Air. [illegible] ceremony
[illegible] A:-[illegible]
[illegible] I [illegible] it, and
[illegible] I [illegible] it.
[illegible] it, and
720 Q:-[illegible] I left there.
[illegible] Joseph Smith [illegible]
[illegible] Alley and others?
Com[illegible] objects to the extract read by
counsel for the plaintiff, on the ground that the
[illegible] has
not been identified by any competent witness, nor is
[illegible] evidence to show that this is the diary of Jo-
seph Smith kept on that day, either any part of it, or
[illegible] of it.
721 Q:-[illegible] the diary of Joseph Smith published in the
Millennial Star from his own diary, and it was publish-
ed by the Utah church here in Salt Lake, as the diary
of Joseph Smith, and you have testified that you were
[illegible] of the church that published
this publication? How do you reconcile
[illegible] with this? I have read? A:-Well I don't
[illegible] anything about that it.
722 Q:-[illegible] you said that there were not any ladies in the
church,-I should say that there was not anybody that
[illegible] members of the church,-ladies,-who were not
[illegible] taken in church marriage? That is
your statement, as it is down on the record? A:-There
did not anybody,-what is that?
723 Q:-There did not any body marry ladies who were not
members of the church as plural wives? Did you not
say that?

A:-I say that, Oh either,-I don't believe I said that. No sir,I don't believe I said that at all.

724 Q:-Will you say that women who did not belong to the church were taken as plural wives,-do you now say that? A:-Well I would not wonder.

725 Q:-Answer the question,-do you now say that women who were not members of the church were taken as plural wives? A:-Well I say I wouldn't wonder but that they were.

726 Q:-Will you not know,or did you ever know of any women who were taken as plural wives,before they became members of the church? A:-Well I expect as a rule they took a season beforehand.

727 Q:-You mean taken a season before they were married to them? A:-Yes, sir.

728 Q:-[illegible] of the church [illegible] that, [illegible]? A:-Yes, sir.

729 Q:-[illegible] you [illegible] positively? Q:-Yes, sir, to be [illegible]. She belonged to the church at that [illegible],-[illegible] of [illegible] at [illegible].

730 Q:-[illegible] A:-[illegible].

731 Q:-[illegible] A:-[illegible].

732 Q:-[illegible] A:-[illegible].

733 Q:-[illegible] A:-I could [illegible].

734 Q:-[illegible] you [illegible] of [illegible] before 1843? A:-[illegible]?

735 Q:-[illegible]? A:-[illegible] living, at my house [illegible] death of her father,[illegible] [illegible] or not [illegible] to the [illegible].

736 Q:-[illegible] A:-He died,-lost his life,-[illegible] there in Kirtland.

737 Q:-Do you not know [illegible] baptized? A:-I know [illegible] of the church [illegible].

738 Q:-But you don't give the date of her baptism? A:-[illegible].

739 Q:-I [illegible] mythic, that you [illegible] refer to that would give you the date of her baptism? A:-No sir,I don't [illegible], but I [illegible] if I had [illegible] I could [illegible] come [illegible] would give the date. It was the time [illegible] Alva Beman came up there to Kirtland with his family,-

740 Q:-Well I don't care anything about [illegible] came to Kirtland or anywhere else,-the fact is that you don't harmonize your statement with the statement made by Joseph Smith as it appears here in his published [illegible], in which he says that she was baptized in 1843 [illegible] you? A:-It is difficult for me to tell the [illegible] without [illegible] right to the papers and remain, it is,-it is difficult for me to remember [illegible] dates.

741 Q:-Well now if Louisa Beman was not baptized until the May 11th 1843 then you did not marry her in 1841 or 1842 to Joseph Smith? You did not marry her then to him,for you married her after she was baptized?

By Mr.Odell,-"We object to the question for the reason

of Illinois? A:-I think so.
785 Q:-Well did you? A:-Yes sir.
786 Q:-Well if you had married him according to the laws
of the State of Illinois which required a license,
you would have had the license in your possession
at one time, wouldn't you? A:-I suppose so.
787 Q:-And you would have had to make a return on it to
the clerk of the court, wouldn't you?
Counsel for the defendants objects to the question asked
the witness for the reason and on the ground that
it is not cross examination, and calls for an opinion
of the witness, and is incompetent, irrelevant and
immaterial to every issue in this case.
788 Q:-You did not make any report or record of that mar-
riage and take it to the clerk of the court, did you?
By Mr. Kell,-"We object further on the ground that there
is no allegation found anywhere in the pleadings,
that they were authorized at that time to celebrate
plural marriages."
789 Q:-There was no license, was there, issued by the clerk
of the court, or by any body else for the marriage?
A:-For the marriage, did you say?
790 Q:-Yes sir,-to marry Joseph Smith to Louisa Beeman,-
for sealing her to him? A:-No sir.
791 Q:-Why not? A:-Well we did not have to use them in
a thing of that kind,-that was a marriage performed
in the church, and it was a secret marriage,-I told
you so very plain.
792 Was this marriage performed under the law or the
color of law? A:-Yes sir.
793 How much did you charge for that marriage or sealing,-
what did you get for it? A:-I done it all right,-right
for the prophet himself. That is where I done it.
794 -Q:-He just told you it was necessary for him to have
Louisa Beeman? A:-Yes sir.
795 Q:-And asked you to seal her to him? A:-Yes sir.
796 Q:-And you did it? A:-Yes sir.
797 Q:-You took his word for it? A:-Yes sir.
798 Q:-And you did not hesitate about it? A:-No sir, I took
his word for it quicker than scat.
799 Q:-And you sealed him to her? A:-I sealed her to him
and I did a good job too.
800 Q:-There was no revelation for it? A:-I don't know
anything about the revelations.
801 Q:-You don't know anything about whether there was
any revelation for it,-any revelation authorizing it
or not,-you just took his word for it? A:-Yes sir.
He said it was all right and I believed him.
802 Q:-Did you perform it in accordance with the revela-
tion published in the book of Doctrine and Covenants,-
promulgated by your church here in Utah? A:-No sir.
803 Q:-Under this polygamous revelation? A:-No sir.
804 Q:-That was not in existence at that time was it?
A:-I don't know whether it was or not.
805 Q:-Well it is dated here in 1843,-was it in existence
at the time that you married Louisa Beeman to Joseph
Smith? A:-I don't know anything about it, and
I don't care a darned thing about it either.

806 Q:-This is another of the things that you don't care a damned thing about too? A:-Yes sir,you can have it that way if you want it that way.

807 Q:-Well is that not what you said? A:-I expect it is,-you are enough to lay down the life out of a fellow,and I kind of love my tormentor sometimes,but I will try and bear with you.

808 Q:-Don't,sir, revelation say that the first wife of a man must give her consent to it before he can marry a second wife,- not take the plural wife by the hand and give her to her husband as a wife before the congregation,is it not?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is immaterial,irrelevant and impertinent, and not the proper mode of examination.

809 Q:-Did you not marry Mormon? A:-I don't know anything about it.

810 Q:-You don't know whether or not,whether there was any celestial marriage or not? A:-Sir,I don't know anything about it, only I have heard kind of stories in the city.

811 Q:-Did you stick it into you? A:-Yes sir,I expect so and I stuck it in as I must fight my way through with you,-I see that plainly enough. Oh you are a fool, I only spoke I have not time to come in my time, and I will cut-let you go on,for I am tired,-you are a fool,sir.

812 Q:-You don't feel as the most of you is a villain,do? A:-I feel my enough,-

813 Q:-Have you any other witnesses you may be prepared to call to these matters? A:-Well not at present of your business.

814 Q:-Is it not? A:-No sir.

815 Q:-Well we will see about that,-who else stick you up to come here as witnesses? A:-It is none of your business.

816 Q:-Did you consult after you left the witness stand with the other men? Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not a proper cross examination.
A:-Nobody.

817 Q:-Do you not compare with Mormons? A:-No sir. I do not compare with them or anybody else,nor have any body insulted me only you.

818 Q:-Do I will use your Noble,if you are not known to the church as "the old man in Israel"? A:-I don't know anything about it.

819 Q:-You don't? A:-No sir.

820 Q:-Do you never hear of the? A:-I never heard that before I know of.

Counsel for the defendant objects to the repetition of these questions as the witness has stated he did not know anything about it,and that "ought to be sufficient".

821 Q:-Did you not write a letter addressed to the Times and Seasons in 1844 as the "old man in Israel"? A:-No sir.

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not a proper examination and for the reasons given in the last objection.

Counsel for the defendants objects to the question asked it.

[illegible] reason for the [illegible] that it is immaterial, irrelevant and incompetent, and is not cross-examination

832 Q:-Where did you live November 15th 1844? A:-I could not tell you now.

833 Q:-Did you live in Nauvoo? A:-In Nauvoo?

834 Q:-Yes sir, in Nauvoo? A:-That time, in your city?

835 Q:-I ask you if you lived in Nauvoo in 1844? A:-One or two, I do [illegible].

836 Q:-Well sir, it was not in '46,-you were living in the city of the Saints in Nauvoo in '44 you said? A:-Yes sir, I think so, but, still I don't know anything about that, [illegible] that you have been [illegible] there.

837 Q:-[illegible] that you were living there in Nauvoo in [illegible]? A:-[illegible] sir, I think it [illegible]. Yes I [illegible] it.

838 Q:-Don't you know [illegible] publication [illegible] then [illegible] only [illegible]?

Counsel [illegible] objection [illegible] ground [illegible] for the reason that [illegible] not [illegible] the question [illegible] immaterial, irrelevant and incompetent, and is not [illegible] examination of matter already [illegible] into.

839 Q:-[illegible] that? A:-I say I don't recollect anything about it.

840 Q:-Don't you know that Sydney Rigdon lived in [illegible] in [illegible], -[illegible] into Nauvoo, [illegible] the bible in the [illegible] of doctrine [illegible] or on, or you [illegible] it, or it [illegible] in your [illegible] paper? A:-I don't [illegible].

841 Q:-Don't you have recollection of [illegible]? A:-I don't know. I have heard the name of [illegible] my [illegible].

842 Q:-[illegible] the name of this particular [illegible] paper? A:-I heard the name, but it did not get much hold of me [illegible], for I don't remember anything about it, [illegible] I don't know that I ever heard about it.

843 Q:-[illegible] the name of this particular [illegible] paper? A:-I don't [illegible] about it.

844 Q:-[illegible] the name of this editorial or John [illegible]? A:-I don't recollect the name of [illegible],-I recollect the name [illegible], for you [illegible] enough to be [illegible] city I [illegible].

845 Q:-[illegible] recollect the name of the piece? A:-[illegible] the question? Q:-[illegible] that. All I recollect about it is the name of your voice [illegible] it.

846 Q:-[illegible] it? A:-Yes sir.

847 Q:-[illegible] it, or it [illegible]? A:-Yes sir, pretty [illegible].

848 Q:-[illegible] to read [illegible] it? A:-[illegible] when [illegible] soon [illegible].

849 Q:-" [illegible] communication of "[illegible] in Israel" [illegible] letter of "Elder Addison Pratt, from the Islands of the Pacific Ocean, to his [illegible] hearty welcome, [illegible] are genuine."

Counsel for the defendant objects to the editorial read [illegible] by counsel for the plaintiff on the ground that there is nothing to prove that it is an editorial, and if an editorial there is nothing to prove that the party who wrote it was authorized to speak on the part of the church or to publish such as the utterance of the church on that question."

850 Q:-John Taylor was the head of the Twelve Apostles, was

[illegible] not at that time,-that is,in 1844? A:-I don't think he was.

857 Q:-You don't think he was a member of the Twelve Apostles? A:-No; he was one of them,but I don't know that he was the head of them.

858 Q:-Will he be one of them? A:-Yes sir,he was a member of the Twelve Apostles at one time,but I don't know just exactly when it was,-that is,I don't know that he was now one of them.

859 Q:-He is the editor of the paper,-the Times and Seasons too,was he not? A:-I believe that is his name,but I don't recollect in about that.

860 Q:-[illegible] your recollection by going from [illegible] and nineteenth pages of this same [illegible] publication,-Governor [illegible] on the printing and publishing [illegible] the first and fifteenth of every month, [illegible] Nauvoo, Illinois, by John Taylor editor and proprietor. Upon two [illegible] in all cases in [illegible] proceeding [illegible] subscribers [illegible] payment [illegible] regulations, [illegible] collected [illegible] subscribers [illegible] Taylor, editor, [illegible] will not [illegible] Now, for Taylor [illegible] of [illegible] of [illegible] time? A:-I [illegible] about that time. I [illegible] not, I don't [illegible].

861 Q:-[illegible] Church? A:-I [illegible] certainly [illegible].

862 Q:-[illegible] question-for I am not [illegible] you [illegible] to,-[illegible] on the [illegible] of Joseph [illegible] A:-I [illegible] know [illegible], but I [illegible] 78.

863 Q:-[illegible] the truth or [illegible] the [illegible] and [illegible]?
A:-[illegible]?

864 Q:-[illegible] 1844? A:-[illegible] to the [illegible] good [illegible] for the [illegible] to acknowledge that I did not know very much either before or after that time,and don't know much now,and don't pretend to.

865 Q:-You don't know very much about it? A:-No sir,regarding the law of the church at that time I am frank to admit that my stock was limited.

866 Q:-Don't you know that the polygamous revelation was adopted by the church here in Salt Lake City in 1852? A:-[illegible] adopted?

867 Q:-Yes sir, adopted by a General Conference here in this city where it was voted on and adopted as a law of the church [illegible]? A:-It was,-so you say I believe.

868 Q:-Well don't you know that it was? A:-I don't know it. I don't believe I voted there.

869 Q:-Were you there? A:-I don't believe I was.

870 Q:-Well if you were not there, where were you? A:-I [illegible] [illegible].

871 Q:-[illegible] were you in the mission [illegible]? A:-I [illegible] I [illegible].

872 Q:-[illegible] polygamy? A:-Practicing polygamy?

873 Q:-[illegible] polygamy? A:-Good Lord, [illegible] you [illegible].

874 Q:-[illegible] you practicing polygamy,-don't tell me [illegible] [illegible]. A:-[illegible] [illegible] polygamy.

875 Q:-[illegible] it, did you? A:-No, I never practiced it either.

~~876 Q:-You never practiced it;~~ [illegible]

876 Q:-[illegible] practiced it, [illegible] ly you [illegible] it? A:-No sir,-just [illegible]ly.

877 Q:-[illegible]? A:-[illegible].

878 Q:-Did you never practice polygamy in your life?

A:-[illegible]

879 Q:-Well did you ever preach it from the pulpit in your life? A:-I [illegible] not. 880 Q Well, did you? A - I guess not.

881 Q:-[illegible] polygamy [illegible] in Nauvoo? A:-[illegible]?

882 Q:-[illegible] from the pulpit [illegible] you [illegible] there? A:-I [illegible], [illegible] [illegible] [illegible] you have [illegible].

883 Q:-Well I [illegible] you ought to tell us [illegible] half, [illegible] will you [illegible]?

A:-Well [illegible],-fire away.

884 Q:-Did you ever hear any body while you were living in Nauvoo, preach the doctrine of polygamy from the pulpit? A:-I don't recollect now, and I would not, if I [illegible] to be hung on the gallows for it.

885 Q:-Did you ever hear anybody preach it in public in Nauvoo?

Counsel for the defendant objects, [illegible] the witness on the ground that the witness has [illegible] in reply to former questions that he does not recollect anything about it.

886 Q:-[illegible]? A:-Well there was not much preaching [illegible].

887 Q:-Well did you ever hear anybody preach it in Nauvoo? A:-I don't think I have. I don't remember anything hardly. I will tell you that when you get to be eighty three years of age, you won't be able to talk half as much then as you do now.

888 Q:-Well I will tell you Mr. Witness, that when I am eighty three years of age and I am asked a question that I don't know anything about, I will say so?
A:-Well sir, that is what I say emphatically, and that ought to be the end of it.

889 Q:-Then I am to understand you as saying that you have

[illegible] Young, that left only six of the original
[illegible] of Twelve that were there in Council at that
conference? A:-I don't remember how many there were.
917 Q:-Well have you the number of the Twelve at that time
[illegible] not? A:-I do sir, not at that time.
918 Q:-[illegible] didn't go? A:-Yes sir.
919 Q:-[illegible] not there did you? A:-Well now let me see,
[illegible] I have been there off?
920 Q:-[illegible] stroke off from Nauvoo before you arrived
[illegible] Council Bluffs, didn't he? A:-Did he?
921 Q:-[illegible] for, or [illegible] did you there? A:-I don't
[illegible] I don't recollect of his being there.
922 Q:-[illegible] Who there did you in minister ordinances
A:-I don't know.
923 Q:-[illegible] two quorums of twelve there with you at
[illegible] A:-There [illegible] of it
[illegible] of the [illegible].
924 Q:-[illegible] William [illegible] brother of Joseph
[illegible] there did you? A:-[illegible] ordinances?
925 Q:-[illegible] A:-Well [illegible] I don't tell you
[illegible] I don't [illegible] I don't remember those
[illegible].
926 Q:-[illegible] you?
A:-[illegible].
927 Q:-[illegible] there is you? A:-I don't think
[illegible].
928 Q:-[illegible] A:-[illegible] I don't
[illegible] Council [illegible] to
[illegible] of the Quorum of Twelve
[illegible] A:-[illegible].
929 Q:-[illegible] they were there not now? A:-I think
[illegible] I don't, I don't [illegible] positively to
[illegible].
930 Q:-[illegible] of the quorum of twelve
[illegible] A:-I
[illegible].
931 Q:-[illegible] I don't recollect
[illegible]

By [illegible] ll.-"All of the foregoing [illegible] ions
[illegible] relating to the Quorum of Twelve is con-
[illegible] to for an reason that it is incompetent, ir-
[illegible] t proof or [illegible],
[illegible] and [illegible] objected to and
[illegible] do to strike from the records of the [illegible]
[illegible] it is not responsive to the question.

By [illegible] lloy,-
934 Q:-[illegible] stroke here from, for you [illegible]
[illegible] in Utah Territory in '46 was it, or was it
in '47? A:-When?
935 Q:-[illegible] ll that is what I am asking you,-what year was
it that you first came here to Utah Territory and
[illegible] Salt Lake City in now? A:-Well good
[illegible] many more times [illegible] you [illegible] to ask
this question,-didn't I tell you that I got here in
'47. We came across the plains and got here in '47
[illegible] of us, and some of us in '46 and some
came in '45 and so on, for they have been coming over
since that time to this.

936 Q:-Well it is not necessary to go over all that, for I simply asked you whether it was in '47 or '48 that you came here? A:-Well it was in '47 when we first came here, but the President who was here returned and came back here again in '48. He was one of the pioneers that came out here.

937 Q:-You had a presidents to your church then when you came out here? A:-Oh June,-

938 Q:-Did you have a president for the church when you came out here?

Counsel for the defendants objects to the question and the answer on the ground that it is immaterial, irrelevant and incompetent, and that it does not tend to prove any issue in this case.

A:-I don't tell you.

939 Q:-Don't you know? A:-[illegible] sir, I don't tell you, for [illegible] constitutes me.

940 Q:-Tell us who it was? A:-[illegible] church [illegible]

[illegible]

Counsel [illegible] objects to the question and the answer on the ground that it is immaterial, irrelevant and incompetent.

941 Q:-[illegible]

942 Q:-[illegible] Q:-[illegible]

[illegible] A:-Not [illegible]

943 Q:-[illegible]

Counsel [illegible] objects to the question and the answer on the ground that it [illegible]

944 Q:-[illegible]

945 Q:-[illegible]

946 Q:-[illegible] A:-[illegible]

947 Q:-[illegible]

948 Q:-[illegible]

949 Q:-[illegible]

[illegible]

950 Q:-[illegible] A:-[illegible]

951 Q:-[illegible]

952 Q:-[illegible]

953 Q:-[illegible]

954 Q:-A [illegible] A:-Yes [illegible]

955 Q:-[illegible] A:-[illegible]

956 Q:-You will feel [illegible] you get there a more [illegible] believed again? A:-Yes sir, I will feel [illegible] believed you know, [illegible] it, don't [illegible] any [illegible] at all.

1006 Q:-Do you remember that? A:-I don't recall it.

1009 Q:-Did he not preach it from the square over here where the temple now is? A:-I could not tell you anything about that he preached or did not preach at all.

1010 Q:-Well did he not release them all? A:-All the [illegible]?

1011 Q:-[illegible] sir? A:-[illegible] sir.

1012 Q:-You [illegible] A:-[illegible] did [illegible].

1015 Q:-[illegible] A:-[illegible].

1016 Q:-[illegible] A:-[illegible].

1017 Q:-[illegible] A:-[illegible].

1018 Q:-[illegible] A:-[illegible] don's [illegible]

1019 Q:-[illegible] A:-[illegible], I don't [illegible]

1020 Q:-[illegible] that [illegible]

1021 Q:-[illegible] A:-[illegible]

1022 Q:-[illegible]

1023 Q:-[illegible] out [illegible]

1024 Q:-[illegible] it be [illegible]

1025 Q:-[illegible] in-[illegible]

1026 Q:-[illegible] of [illegible]

1027 Q:-[illegible] I [illegible]

1028 Q:-[illegible]

1029 Q:-[illegible] A:-[illegible]

1030 Q:-[illegible]

1031 Q:-[illegible] A:-[illegible]

1032 Q:-[illegible] A:-[illegible]

1033 Q:-[illegible] A:-[illegible]

1034 Q:-[illegible] A:-[illegible] I tell you I do not know [illegible] ll.

1035 Q:-[illegible] A:-[illegible]

Smith could grant divorces?
Counsel for the defendants objects to the question asked the witness for the reasons above given.
A:-No sir.
I030 Q:-Did you ever hear it taught before his death, or did he teach before his death that he could grant divorces?
Counsel for the defendants objects to the question asked [illegible] on the ground and for the reason that it [illegible] not, and I want the record to show that [illegible] of the ground that it [illegible] and [illegible] by the witness.
I031 Q:-[illegible] A:-[illegible]
I032 Q:-[illegible] A:-[illegible]
I033 Q:-[illegible] A:-[illegible]
I034 [illegible]
I035 [illegible]
I036 [illegible]
I037 [illegible]
I038 [illegible]
I039 [illegible]
I040 [illegible]
I041 [illegible]
I042 [illegible]
Counsel for the defendants objects to the question asked [illegible] the witness for the reasons above given.
I043 [illegible]
I044 [illegible]
Counsel for the defendants objects to the question asked [illegible] the witness for the reasons above given.
I045 [illegible]
Counsel for the defendants objects to the question asked [illegible] the witness for the reasons above given.
I046 [illegible]
I047 [illegible]
Counsel for the defendants objects to the question asked [illegible] the witness for the reasons above given.
A:-[illegible]
I048 Q:-Do you say that [illegible]?
A:-All of them.
I049 Q:-Do you say that [illegible] all of your divorce [illegible] to you?

A:-No sir.

I050 Q:-Well what do you say about it? A:-Well I might tell some of them.

I051 Q:-Will tell me the names of all the ones that you can remember?

Counsel for the defendants objects to the question asked the witness on the ground that it is immaterial, irrelevant and incompetent, and not proper cross examination.

I052 Q:-I am not asking you if you live with them now? I am not asking you anything of that kind.-I am simply asking you to give me the names of all the wives you have married at various times, or as many of them as you can remember? A:-I don't think I can tell.

I053 Q:-Can't you tell the names of some of them? A:-I [illegible].

I054 Q:-Do you mean that you can't tell? A:-I swear that I don't tell.

I055 Q:-Why? A:-Just for some reason or other.

I056 Q:-Are you in the habit of marrying, if court? A:-Yes sir, I don't, such a [illegible] of [illegible] [illegible].

I057 Q:-You [illegible] the marvels, not any [illegible]? A:-[illegible].

I058 Q:-[illegible]. A:-I hope you do.

I059 Q:-[illegible] you [illegible]? A:-Because I feel inclined.

I060 Q:-Why did you say it was none of my "damned business" [illegible] to give my business [illegible]?

Q:-[illegible] you are no [illegible].

I061 Q:-[illegible] you tell me the names of your wives [illegible]?

A:-No sir, I don't do it.

I062 Q:-Why? A:-Just because I don't.

I063 Q:-Is [illegible] it is none of my "damned business"?

A:-Yes sir.

I064 Q:-Will you tell me the times you married [illegible]? A:-No sir.

I065 Q:-How many wives have you had? A:-I can't go in to [illegible] up.

I066 Q:-[illegible] you had as many as fifteen, and [illegible] you [illegible] of them for the sake of [illegible]?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is immaterial, irrelevant and incompetent.

A:-It is,-much nonsense.

I067 Q:-Have you ever been divorced from any of them?

Counsel for the defendants objects to the question for the reasons above given.

I068 Q:-Have you ever been divorced from any of them?

A:-There is four or five of them livin, no more in the beyond, and perhaps that is divorced.

I069 Q:-Will that be the kind of divorce contemplated by my question,-answer the question? A:-No sir.

I070 Q:-Were all of those four or five that are livin, up in the green yard married to you at the same time? A:-No sir.

I071 Q:-Have you ever had two wives livin, at the same time?

Counsel for the defendants objects to the question asked the witness for the reasons above set forth.

I072 Q:-Will you answer that question? Will you answer that? A:-I have no objection.

I073 Q:-Will answer it then? A:-What is it,-put it again.

I074 Q:-Have you ever had two wives living at the same time? A:-Yes sir.

I075 Q:-Have you ever had more than two wives living at the same time? A:-That is none of your business.

1076 Q:-And do you refuse to answer that question also?
A:-Yes sir.
1077 Q:-Do you will you answer and tell us the date that you took your first plural wife? A:-I can't tell you the date.
1078 Q:-Was it in 1845 when you lived in Nauvoo? Will you answer that?
Counsel for defendants objects to the question asked the witness on the grounds above set forth.
A:-I can't tell.
1079 Q:-Do you say you do not tell that for the reason you don't recollect it, or is it for the reason that you do not want to tell it?
A:-I don't tell it for the dance bother me so.
1080 Q:-Do I understand that you do not know when it was you married your first wife as well as you know how old it is today?
Counsel for defendants objects to the question asked as irrelevant and immaterial, and not proper cross examination.
A:-I say I don't tell it for I don't remember.
1081 Q:-Did you married in that county in Nauvoo? Does
Counsel [illegible]
1082 Q:- [illegible]
A:- [illegible]
Counsel [illegible]
1083 Q:- [illegible]
1084 Q:- [illegible]
Counsel [illegible]
1085 [illegible]
1086 Q:- [illegible]
1087 Q:- [illegible]
Counsel [illegible]
A:- [illegible]
1088 [illegible]
1089 Q:-You [illegible]
1090 Q:- [illegible]
Counsel [illegible]
A:- [illegible]
1091 Q:- [illegible]
1092 Q:- [illegible]
1093 Q:- [illegible]
1094 Q:- [illegible]

I095 Q:-Do you preach any now? A:-No sir,not much.
I096 Q:-That means that you preach some? A:-Well a little.
I097 Q:-Do you say you don't preach a "darned bit"?
A:-No sir,not much.
I098 Q:-You do not preach much,but you are still an elder and an high priest in this church our here are you not? Are you an elder and an high priest? Don't you want to answer that question too?
Counsel for the defendants objects to the question asked the witness on the ground that the witness has already answered the same identical question several times.
I099 [illegible]
I100 [illegible]
I101 [illegible]
I102 [illegible]

The deposition of MrS.Lucy W. Kimball was taken commencing on Tousday March 22nd at the hour of 9.30 A.M.

Lucy W. Kimball,of lawful age,being pruduced,sworn and examined on the part of the defendants,testified as follows,-

Direct examination by Mr.Hall,-

I Q:-State your name please to the reporter? A:-Lucy W. Kimball.

2 Q:-Where do you reside,Mrs.Kimball? A:-In Logan at present. My former home was Salt Lake,but I reside at Logan now.

3 Q:-Where is that? A:-Logan?

4 Q:-Yes ma'am? A:-It is in Cache County.

5 Q:-In what territory? A:-Utah.

6 Q:-Where did you reside before you went to Logan? A:-I said it was Salt Lake City.

7 Q:-Well,where did you reside before you came to Utah Territory? A:-It was in Salt Lake at my home here.

8 Q:-Well where did you reside before moving to Salt Lake City? A:-It was in Nauvoo. We came from Nauvoo here. Of cousre we went to Provo for a short time,and I suppose it was,-it has nothing to do with this I expect.

9 Q:-What state was Nauvoo in? A:-It was in Illinois.

I0 Q:-What church,if any,were you a member of while at Nauvoo? A:-The church of Jesus Christ of Latter Day Saints.

II Q:-About what time did you move to Nauvoo,Illinois, first? A:-Well,we moved there in '4I.

I2 Q:-How long did you live there? A:-We came away in '46 Is that right? Yes,we came away in '46.

I3 Q:-Who was the highest officer in the church of Jesus Christ of Latter Day Saints,iv Nauvoo,at the time you lived there?

Counsel for the plaintiff objects to the question asked the witness

not the best evidence.
I4 Q:-You may answer the question? A:-At that time,-that is,at the time were living in Nauvoo,or went there?
I5 Q:-Yes madam? A:-Well President Joseph Smith was up to the time of his death.~~what~~
I6 Q:-State to the reporter,if you know,if any thing,in regard to plural marriage,or what is commonly called polygamy? As to its being taught or practiced in the church of Jesus Christ of Latter Day Saints in Nauvoo Illinois,by the members of that church,before the death of the prophet,Joseph Smith?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,leading and heaesay.
A:-Well it is not hearsay with me. Do you wish me to state what I know about it?
I7 Q:-Yes,you may state what you know about it? A:-Well I know,-
By Mr.Kelley,-
I8 Q:-Now state what you know of your own personal knowledge-Mrs.Kimball,and not what you heard,or what some some one told you,-but state what you know positively of your own knowledge,-remember that? A:-Well,we looked upon Joseph Smith as a prophet of God and believed what he taught and said.
By Mr.E.L.Kelley,-"Well the plaintiff objects to that as not being responsive to the question."
A:-(continued),-And the Lord commanded him to take other wives,as we understand it,and we believe he did.
Counsel for the plaintiff objects to the answer of the witness,and moves the court to strike it from the record for the reason that it is incompetent and immaterial and heaesay,and not responsive to the question asked.
By Mr.Hall,-
I9 Q:-State to the reporter whether or not that doctrine was ever taught to you personally? A:-Yes sir.
Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading,incompetent irrelevant and immaterial.
20 Q:-It was taught to you personally? A:-~~Yes sir.~~It was.
2I Q:-Do you know that of your own knowledge? A:-Yes sir it was taught to me personally,and I was married to the prophet Joseph Smith.
Counsel for the plaintiff objects to the answer of the witness,and moves the court to exclude the same from the record as not responsive to the question asked and incompetent.
22 Q:-You were married to Joseph Smith,you say? A:-Yes sir.
23 Q:-Who performed the ceremony when you were married to Joseph Smith?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and leading.
A:-Elder William Clayton,and I accepted it as a special command from God.
Counsel for the plaintiff moves the court to exclude from the record the answer of the witness on the ground that it is incompetent and irrelevant and not responsive.
A:-I thought it was facts that I was to state to you and when I do so you object to them.
By Mr.P.P.Kelley,-"
24 Q:-You were asked to state what you know of your own knowledge?

A:-Well that is what I am doing. I stated that he taught me that doctrine,and that I was married to him,and these are facts that I know of my own knowledge,and yet you object to it.

By Mr. Hall,-

25 Q:-Pay no attention to them Mrs. Kimball,for they are here to make objections,but you have nothing to do with that at all. It is their privilege to make all the objections they please,but that should not effect your answer,for you are to go right ahead and answer just the same as if no objection had been made. Now you may state to the reporter when you were married to Joseph the prophet as nearly as you can.

Counsel for the plaintiff objects to the questios on the ground that it is incompetent,irrelevant and immaterial,and leading.

A:-It was the first day of May 1843.

26 Q:-You may state if there was any one present,and if so,who they were when that ceremony was performed?

Counsel for the plaintiff objects to the question asked the witness on the ground above set forth.

A:-Well,there was Miss Eliza Partridge. She was the only witness we had to the ceremony.

27 Q:-State to the reporter as nearly as you can when you first heard of this principle of plural marriage,-that is,when you first heard it taught?

Counsel for the plaintiff objects to the question for the reasons above set forth.

A:-Well,in '42 was the time. That was the time that this principle was first taught,but it was revealed to the prophet in '31,but he did not teach it then only to a very few in whom he had confidence and felt he could trust absolutely,fot he felt the importance and responsibility of the step he was taking.

Counsel for the plaintiff objects to the answer of the witness on the grounds that it is incompetent,irrelevan and immaterial,and hearsay,and not responsive to the question,and moves the court to exclude it from the record for the reasons given.

28 Q:-State who it was taught you that principle in '42?

A :-It was President Joseph Smith.

29 Q:-Can you state the circumstances under which he first taught you that principle?

Counsel for the plaintiff objects to the question on the ground that it is leading,and incompetent,irrelevand and immaterial.

A:-Well,the circumstances were these,-it was a command from God to me to receive it,and I would rather have laid down my life than disobeyed it,but it was a grand and glorious principle that was to be established,and when I was called upon I stepped forward and gave myself up as a sacrifice to establish that principle,and I did that in the face of prejudice,of course. In this day and age of the world we are considered fanatics of course,more or less. I gave myself up as a sacrifice,for it was not a love matter, so to speak,in our affairs,-at least on my part it was not,-but simply the giving up of myself as a sacrifice to establish that grand and glorious principle that God had revealed to the world.

Counsel foe the plaintiff objects to the answer of the witness on the ground and for the reasons given in the objection to the question to which it is an answer and on the additional ground that it is not responsive to the question,and moves the court to strike it from the record for those reasons.

30 Q:-Did you ever live with Joseph Smith as his wife?
A:-He was my husband sir.
Counsel for the plaintiff moves the court to exclude from rhe record the answer of the witness for the reason that it is not responsive to the question,and incompetent.
31 Q:-What difference,if any,is there in the principle of plural marriage as taught you by Joseph Smith,and the principle of plural marriage as published by the church in their revelation published by them,here in Utah.
Counsel for the plaintiff objects to the question as incompetent,irrelevant and immaterial,leading and hearsay,and on the further ground that it calls for an opinion of the witness.
A:-There is not any.
Counsel for the plaintiff moves the court to exclude the answer of the witness from the record for the reason set forth in the objection to the question to which it is an answer.
32 Q:-That is all?
Cross oxamination by P. P. Kelley,-
33 Q:-Where were you born,Mrs.Kimball? A:-I was born in Vermont.
34 Q:-In what year were you born? A:-In 1826.
35 Q:-When did you first become a member of the church?
A:-It was when I was nine years of age.
36 Q:-Where? A:-Where did I become a member of the church?
37 Q:-Yes,madam,-at what place did you join the church?
A:-In Ogdensburg.
38 Q:-That is in New York State? A:-Yes sir.
39 Q:-What month in the year were you born? A:-The 30th of April 1826.
40 Q:-On the 30th of April? A:-Yes sir.
41 Q:-What was your name? A:-Walker.
42 Q:-What was your fathers name? A:-John Walker.
43 Q:-In what year did you unite with the church? A:-Well it was when I was nine years old.
44 Q:-Well what year would that be? A:-In '34 I expect.
[illegible]
in what month
45 Q:-That would be '35 would it not? That would be in '35 wouldn't it Mrs,Kimball? A:-Yes sir,I suppose so.
46 Q:-When was the first time you ever saw Joseph Smith,-in what month and year? A:-It was in 1841. I don't remember the month,but I remember it was in the spring sometime.
47 Q:-In the spring of 1841 you first saw Joseph Smith?
A:-Yes sir.
48 Q:-Where did you first see him? A:-When I came to Nauvoo,I first saw him there.
49 Q:-You first met him when you came to Nauvoo? A:-Yes sir.
50 Q:-And that was when you came to Nauvoo? A:-Yes sir We took dinner at his house when we came there with our family.
51 Q:-Now you became a member of the church in 1838 did you? A:-Yes sir.
52 Q:-And you never at any time saw Joseph Smith until 1841? A:-Yes sir.I did see him before that.
53 Q:-And yet you swear that he received a revelation on polygamy in 1831,notwithstanding the fact that you did not see him until 1841? Ia that what you swear to mrs.Kimball? A:-Well that was his statement to me I know.
54 Q:-You were asked to state only what you knew of your personal knowledge,-and you made the statement that what you were stating was of your personal knowledge-Now do you say as your personal knowledge that he received a revelation on polygamy in 1831?

30 Q:-Did you ever live with Joseph Smith as his wife?
A:-He was my husband sir.
Counsel for the plaintiff moves the court to exclude from rhe record the answer of the witness for the reason that it is not responsive to the question,and incompetent.
3I Q:-What difference,if any,is there in the principle of plural marriage as taught you by Joseph Smith,and the principle of plural marriage as published by the church in their revelation published by them,here in Utah.
Counsel for the plaintiff objects to the question as incompetent,irrelevant and immaterial,leading and hearsay,and on the further ground that it calls for an opinion of the witness.
A:-There is not any.
Counsel for the plaintiff moves the court to exclude the answer of the witness from the record for the reason set forth in the objection to the question to which it is an answer.
32 Q:-That is all?
Cross oxamination by P. P. Kelley,-
33 Q:-Where were you born,Mrs.Kimball? A:-I was born in Vermont.
34 Q:-In what year were you born? A:-In I826.
35 Q:-When did you first become a member of the church? A:-It was when I was nine years of age.
36 Q:-Where? A:-Where did I become a member of the church?
37 Q:-Yes,madam,-at what place did you join the church? A:-In Ogdensburg.
38 Q:-That is in New York State? A:-Yes sir.
39 Q:-What month in the year were you born? A:-The 30th of April I826.
40 Q:-On the 30th of April? A:-Yes sir.
4I Q:-What was your name? A:-Walker.
42 Q:-What was your fathers name? A:-John Walker.
43 Q:-In what year did you unite with the church? A:-Well it was when I was ninP years old.
44 Q:-Well what year would that be? A:-In '34 I expect.
[illegible]
45 Q:-That would be '35 would it not? That would be in '35 wouldn't ii Mrs,Kimball? A:-Yes sir,I suppose so.
46 Q:-When was the first time you ever saw Joseph Smith,-in what month and year? A:-It was in I84I. I don't remember the month,but I remember it was in the spring sometime.
47 Q:-In the spring of I84I you first saw Joseph Smith? A:-Yes sir.
48 Q:-Where did you first see him? A:-When I came to Nauvoo,I first saw him there.
49 Q:-You first met him when you came to Nauvoo? A:-Yes sir. [illegible]
50 Q:-And that was when you came to Nauvoo? A:-Yes sir We took dinner at his house when we came there with our family.
5I Q:-Now you became a member of the church in I83B did you? A:-Yes sir.
52 Q:-And you never at any time saw Joseph Smith until I84I? A:-Yes sir.I did see him before that.
53 Q:-And yet you swear that he received a revelation on polygamy in I83I,notwithstanding the fact that you did not see him until I84I? Ia that what you swear to mrs.Kimball? A:-Well that was his statement to me I know.
34 Q:-You were asked to state only what you knew of your personal knowledge,-and you made the statement that what you were stating was of your personal knowledge-Now do you say as your personal knowledge that he received a revelation on polygamy in I83I?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is not proper cross examination,and for the reason that the witness ~~that the witness~~ has stated that she did not know of her own personal knowledge,but know it because Joseph Smith had told her so.

55 Q:-Answer the question? A:-Well that is the only answer I can give,for I have his word for it.

56 Q:-Then you don't know anything about it at all,personally,do you? Is not that the fact? A:-Well of course I was not there and did not see him receive it,but I have his word that he did receive it.

57 Q:-How do you know anything at all about it only what he told you? A:-Yes sir.

58 Q:-What is it? A:-I know as much about it as I do that there is a command of God that was delivered to him, that he should take others.

59 Q:-Take other wives? A:-Yes sir.

60 Q:-Well do you know anything about his receiving a revelation on polygamy in 1831? A:-Well I know just this that Joseph Smith was a prophet of God,and I believed just what he told me about it.

61 Q:-Well you don't know anything about it at all only just what you heard? A:-I know what he told me himself.

62 Q:-Well is that what you heard about it? A:-Yes sir.

63 Q:-And you did know anything about it only that? A:-No sir,only that and what is written.

64 Q:-You never saw that revelation during his lifetime? A:-No sir. Did you say saw the revelation?

65 Q:-Yes madam? A:-Yes sir,I did.

66 Q:-You saw the revelation? A:-Yes sir.

67 Q:-Where did you see it A:-At our home.

68 Q:-Where was that? A:-At the Nauvoo mansion.

69 Q:-At what time was that? A:-Well I don't know for I w was a member of the family and I only know from him.

70 Q:-Well what time did you see that revelation? A:-That was in '42.

71 Q:-It was in '42? A:-Yes sir.

72 Q:-You saw the revelation then? A:-It was not written.

73 Q:-It was not written,you say,-what do you mean by that A:-It was not written to present to the church.

74 Q:-Well,was it printed? A:-No sir. It was written later than that.

75 Q:-For presentation to the church it was written later than that? A:-Yes sir.

76 Q:-Well was it written at the time you saw it in 1842? A:-Of course it was.

77 Q:-And that was in 1842? A:-Yes sir,-that is,it was in manuscript,you know. He told me of the revelation.

78 Q:-What revelation was it? A:-The one on plural marriage.

79 Q:-You are sure about that? A:-Of course I am.

80 Q:-You are just as positive of that as any thing else you have testified to? A:-Yes sir.

81 Q:-You are? A:-Yes sir.

82 Q:-And there is no doubt about it? A:-No sir.

83 Q:-Now if you are mistaken in that you are mistaken in about everything else you have testified to,are you not? A:-Well,-

84 Q:-Answer the question,yes or no,-if you are mistaken in that you are mistaken in everything else you have testified to? If you are mistaken when you say that

the revelation you saw there in 1842 was the revelation on plural marriage,then you are mistaken in everything else you have sworn to,for you say you are as positive of that as of anything else you have testified to? A:-Well now I would not be positive as to just the time,-that is,as to the express time,-but I know that it was not written,-it was not presented to the High Council for their acceptance until,I think it was 1843

85 Q:-You don't know as a matter of fact whether it was ever presented to the High Council for acceptance or rejection at all or not,do you? A:-Well I read the proceedings of the council,-

86 Q:-You did? A:-Yes sir.

87 Q:-In what paper,or where did you read that? A:-Well it was in,-well,now I can't tell you what paper it was.

88 Q:-Was it in the Times and Seasons? A:-I could not tell you that sir. I can't tell you I believe.

89 Q:-Did you read it at all? A:-Yes sir.

90 Q:-But you can't say from what you read it? A:-I had it in my possession,-the proceedings of that high council,and those that were present at the time.

91 Q:-Have you that now? A:-I think.

92 Q:-Will you produce it when you return here,-that is, the proceedings of that High Council? A:-I can when I return,-if I do return.

93 Q:-What is the date of it? A:-of what?

94 Q:-The meeting of that High Council in which this was acted on? A:-I don't know that I can tell you the exact date.

95 Q:-You are sure it was acted on? A:-Yes sir.

96 Q:-Was it during the lifetime of Joseph Smith? A:-Yes sir.

97 Q:-Now don't you know it was in 1845? A:-No sir.

98 Q:-Well if it was not in 1845 when was it? A:-It was, I think in '43 if I am not very much mistaken.

99 Q:-Are you positive that it was in 1843? A:-No sir, I would not be positive of the date,but I think it was then.

100 Q:-Do you know what paper it was published in? A:-Well I could send you the paper and that is the best testimony.

101 Q:-Well can you send me the record of the High Council,made at the time it was presented to them? A:-I can send you the sketch,or at least the testimony of those that were there.

102 Q:-When was that testimony made up,or when was it given? A:-I can not tell you that?

103 Q:-Don't you know it was not made until long years after Joseph Smith was dead? A:.I can't tell you that.

104 Q:-Don't you know when it was made? A:-No sir.

105 Q:-Don't you know it was made here in Utah? A:-I could send it here to you and you could see when it was made.

106 Q:-Well don't you know that? A:-That is something I can't tell you.

107 Q:-Don't you know that without the necessity of sending the paper to me? A:-I don't remember.

108 Q:-And don't you know Mrs.Kimball that you have not a scrap of writing anywhere,and you never saw a scrap of writing anywhere of the proceedings of the High Council held in Nauvoo in 1843 or '44 or of any meeting of the High Council before the death of Joseph Smith,showing that this revelation was ever presented to them? Don't you know that you have no such document as that? A:-I can send you the testimony of those who were present.

109 Q:-Well,have you any such document as that? A:-Yes sir.
110 Q:-A document purporting to be the proceedings of the High Council in Nauvoo in '43 or '44 made at the time the council was in session,and published at that time before the world,-before the death of Joseph Smith? I mean a document showing that the revelation on polygamy had been presented to the High Council? A:-It was not published before the world.
111 Q:-Well,was it written before the death of Joseph Smith? A:,Yes sir.
112 Q:-What was written? A:-The revelation was written.
113 Q:-Well,I refer to the proceedings of the high council at which you say it was presented? A:-Well,now I may possibly be able to furnish you that,-I could not say whether I could or not,but possibly I might be able to do so.
114 Q:-Well,now Mrs,Kimball,I will give you from now to the first day of September,if you will promise to send that to the Commissioner who is taking your testimony,-that kind of a document,and feel under a deep obligation to you if you will do so.? A:-The proceedings of the high council written at the time?
115 Q:-Yes madam,showing that this alleged revelation was presented to them for their adoption? Now I don't want somebody's affidavit of what occurred there,-but I want the statement of the proceedings of the High Council as they were written down at the time which show that this revelation was presented to them for their adoption. A:-A:-Well I think that I can do that,but if I can't you don't want the affidavit?
116 Q:-No I don't want the affidavit. I want the proceedings of the High Council at which that revelation was presented for adoption before the death of Joseph Smith,and I don't want an affidavit. I want the proceedings as they were written down at the time. A:-Well,I understand now what you want.
117 Q:-You are sure there is such a document in existence? A:-I am not. I am not positive.
118 Q:-You are not positive? A:-No sir,
119 Q:-But your best recollection is that you have it? A:-I am not positive that I have it.
120 Q:-Well that is your best recollection,is it not,that you have it? A:-I can't say,but I will make search for it,and if I can find it I will send it to you with pleasure.
121 Q:-Well is it yout best recollection now that you have such a document? A:-I think I have.
122 Q:-Who did you obtain it from,if you ever did obtain it? A:-Well,I think it is in the Times and Seasons, but I am not sure that it is there. I could look it up however and see if it is there. Had I known before I left home I should have looked these things up,and made an effort to secure the facts.
123 Q:-I will ask you if that is the paper,-if that is the publication you are thinking of,-(handing witness a paper)? A:-No sir.
124 Q:-That is not it? A:-No sir.
125 Q:-Is the paper you speak of an original paper,written,or is it printed? A:-It is printed. It is a printed affidavit that I refer to now,and as for being positive that I have the proceedings of the High Council,writteb in book form,I could not say sir.
126 Q:-Whose affidavit do you refer to? A:-Why it is that of Leonard Lobey,-he is the man.
127 Q:-Leonard Lobey? A:-Yes sir.

128 Q:-Is that all you have? A:-Well,I could not tell you My books and papers are filed away,and I could not tell you without making an examination of them to see what there is there with reference to it,if there is any thing.

129 Q:-Look at this which I now hand you,and say whether or not that is the same affidavit you have reference to? A:,Yes sir.

130 Q:-You recognize that as the same one? A:-Yes sir,I recognize that as it.

131 Q:-That is the paper you referred to? A:-Yes sir,that is the affidavit I spoke of,but whether I have the other paper you spoke of I am not positive.

132 Q:-State to the examiner when that paper was published that you have in your hand? A:-This affidavit?

133 Q:-Yes madam,-the paper that contains the affidavit of Leonard Sobey,-when it was published? A:-Jan. 21st 1886.

134 Q:-That is the date of its publication? A:-Yes sir.

135 Q:-Now you have an affidavit of Leonard Soby's made in 1843? A:-No sir.

136 Q:-or in 1844? A:-No sir,but I have the names of that council.

137 Q:-You got that from the church record,did you not? A:-Yes sir.

138 Q:-Now will you say Mrs Kimball that after you return to your home,if you can find the original minutes of the High Council held in Nauvoo in 1843 that you will send them to the commissioner who is now taking your testimony? A:-I will.

139 Q:-You will do that? A:-Yes sir.I certainly shall.

140 Q:-Are you the custodian of the church records? A:-Well,not exactly. I have records,however,of my own,-that is,I have books and papers of my own.

141 Q:-Have you got any records of the High Council prior to 1844? A:-Well,not in my possession.

142 Q:-Have you them at home? A:-Well I think so.

143 Q:-Are you sure that you have? A:-I am pretty positive that I have,but I would not say positively that I have.

144 Q:-Well in what shape is it? A:-Why it is in the usual shape,of course.

145 Q:-Well I mean in what shape is it with reference to its being printed or written? A:-Why of course it is printed. As a matter of course it is printed. It is the church records,-the church history.

146 Q:-Is it in the Times and Seasons?' A:-Well there is some things in the Times and Seasons of course.

147 Q:-Is there any thing in the Millenial Star? A:-Yes sir.

148 Q:-Are those the books you refer to? A:-Yes sir.

149 Q:-Are there any others that you can refer to as containing it? A:-Well I could not say.

150 Q:-Well,what is your best impression as to that? A:-Well now,really,I could not answer that,for I dont know.

151 Q:-Now when you refer to the church records,you refer to what is in the Times and Seasons and the Millenial Star,do you not? A:-I did.

152 Q:-That is what you referred to? A:-Yes sir.

153 Q:-Were you ever in Jackson County,Missouri? A:-No sir

154 Q:-Were you ever in Far West,Missouri? A:-No sir.

155 Q:-What month in the year did you come to Nauvoo in? A:-I could not say.

156 Q:-Well what is your best impression in regard to that? A:-I could not state the month,but I think it

was in the spring. I don't know that I ever knew the month,-of course I did though at one time,but it has passed from memory,but I think it was along in the spring.

I57 Q:-In the spring of 1841 or '42? A:-In the spring of '41.

I58 Q:-Well in 1841 you came to Nauvoo? A:-Yes sir.

I59 Q:-How old were you when you got there? A:-I could not tell you.

I60 Q:-You do not know how old you were when you arrived at Nauvoo? A:-Well of course you have the date of my birth,and you can tell as well as I. If I knew the date that I arrived there at Nauvoo I could tell you exactly how old I was.

I61 Q:-Well do you know how old you were when you went there? A:-I went there in '41.

I62 Q:-Well the question is,-do you know how old you were when you went there? A:-Well you have it there,-you know the date of my birth and the time I got there,ad that is enough.

I63 Q:-You were fifteen were you not? A:-Well,-

I64 Q:-Well,were you fifteen when you went there? A:-Well, I think,-I don't think we went there before my fifteenth birthday. I don't remember how that was.

I65 Q:-If you went there before the 30th of April '41 you were not fifteen before you got there,for that would be your fifteenth birthday wouldn't it? A:-Yes sir.

I66 Q:-Well where did you live in Nauvoo after you got there? What house or whose house did you live in after you got there? A:-Well I don't remember that either,for my mother was very sick at the time we got there,and for some time afterwards she continued to be very sick,and I don't remember whose house we lived in first after we got there.

I67 Q:-You lived in Joseph'Smith's house after you went there didn't you? A:-Well,after my mother's death I did.

I68 Q:-Well,when did your mother die? A:-Well she died in January '41.

I69 Q:-In January 1841 your mother died? A:,Yes sir.

I70 Q:-Did she die after you got there? A:-Yes sir,she did.

I71 Q:-Then if she died then,you must have got there in 1840? A:-I think not. I think we must have got there in the spring of '41 because I know my mother was there.

I72 Q:-If you got there to Nauvoo in the spring of '41 did not your mother die in the spring of '42? A:-Oh yes,it would be '42,for she died in the January after we got there.

I73 Q:-I should think so too? A:-Yes sir,It was in '42 tht that mother died.

I74 Q:-You were there about a year before your morher died? A:-Yes sir,

I75 Q:-Now is it not a fact that you and your mother mother lived in Joseph's house after you got there? A:-No sir we lived in our own house until after mother's death.

I76 Q:-Then where did you live? A:-Well I lived with the prophet's family from that time on up to the date of his martyrdom.

I77 Q:-Then from about the first of the year 1842 up to the 27th of June 1844 you lived with the prophet at his house? A:-Yes sir.

I78 Q:-What were you doing? A:-I spent most of the time with Don Carlo's widow after his death.

I79 Q:-Then it is a fact that you were not with the family of the prophet all the time? A:-Well no,not all the time,but I was back and forth between the two families.

180 Q:-You said you were with whose widow most of the time A:-The widow of Don Carlo Smith,-of course that was after he was dead.
181 Q:-Well where did you make your home? A:-In the man,-sion,-thatis,after we moved into the mansion I did.
182 Q:-What number was the number of your room in the mansion? A:-Well,I don't know that my room was numbered, I don't know that there was any number on it at all.
183 Q:-Were you acknowledged there as a member of the family? A:-Well I don't know that we were acknowledged,but we were considered as members of the one family.
184 Q:-How many rooms were there in the mansion house? A:-I could not tell you that for I don't remember.
185 Q:-Was there a dozen,or fifteen or only six? A:-I could not tell you sir.
186 Q:-Well don't you know that there was but four besides the kitchen? Is not that correct? A:-Well now there was four in the front part of the house,and a large dining room,-and there was two chambers. The family occupied one portion of the house there.
187 Q:-That is your recollection? A:-Yes sir-that is my recollection,but of course a person can't have a very distinct and well defined idea of something that has happened nearly half a century ago.
188 Q:-Well how many rooms was there in the house all told? A:-I never counted them.
189 Q:-Do you swear that you never counted them? A:-I don't believe I did.
190 Q:-And you don't know how many rooms there was in that house? A:No sir.
191 Q:-Although you were in that house every day,or almost every day for two and a half years,you never counted the rooms that were in it,and did not know how many there was? A:-It never occerred to me to count them,a and as I had no desire to do so I didn't do it.
192 Q:-Did you live in the same part of the house as the family did? A:-I always did nad I took my meals in the same place.
193 Q:-And you roomed there in the same house with the family? A:-Yes sir.
194 Q:-In the same rooms? A:-No sir,in the same house,but not in the same rooms,for we had our own bed rooms, or private rooms.
195 Q:-With whom did you room? A:-My sister.
196 Q:-With which sister? A:-My oldest sister.
197 Q:-Well what was her name? A:-Catherine.
198 Q:-Then there was yourself and your sister Catherine roomed together? A:-Yes sir.
199 Q:-What else was her name besides Catherine? A:-Catherine Walker was her name.
200 Q:-Now she went there the same time you did? A:Yes sir.
201 Q:-In 1842? A:-Yes sir,and about the same time as I did.
202 Q:-And you both stayed there until the prophet's death? A:-Well I stayed there until my oldest brother married.
203 Q:-Well when did he marry? A:-Well he married in '43
204 Q:-In '43? A:-Yes sir.
205 Q:-And then you went away? A:-In the fall of '43 I think it was, I think it was in August,but I would not be positive,but I think that was the time he got married.
206 Q:-Well after your brother got married you went and

stayed with him,and left the mansion house as a place of residence? A:-Yes sir,I went and stayed with my brother.

207 Q:-What became of your sister? A:-She remained there.

208 Q:-You went to live with your brother,but your sister still remained in the mansion house? A:-Yes sir.

209 Q:-And that was in August,you think,of 1842? A:-Yes sir,that is my best recollection of the date.

210 Q:-Where did your father live at that time,or was he dead? A:-Well he was in the east for several years after that.

211 Q:-Then what you stated a while ago that you had lived with Joseph Smith from the time of the death of your mother up to the time of his death is not true? A:-I did not live under the same roof.

212 Q:-Well you said a while ago that you lived with the family up to the time of his death? A:-Well,we always considered it as the family,for my brother always lived there up to the time he was married,and was there for six months afterwards,and that is how I had the privilege of going and staying with them,for when they had a family I thought the caring for the smaller children that were there was too much for the young wife,and so I wanted to go with them and begged that privilege.

213 Q:-That is with your brother and his family? A:-Yes sir.

214 Q:-You said that you did not go to Missouri at all did you not? A:-Yes sir,not to Jackson County or to Far West,but when they left I went with them as far as Shoal Creek I think it was called,-I believe it was five miles from there.

215 Q:-Five miles from Shoal Creek? A:-Yes sir,it was at the time of the massacre,-

216 Q:-Well when I asked you a while ago if you had been in Missouri you said no,didn't you? A:-I said I did not go to Far West,-I don't think there was anything said about Missouri.

217 Q:-Well how far were you then from Far West,-how far is Shoal Creek from Far West? A:-We were five miles from Shoal Creek and I don't know just how far that is from Far West.

218 Q:-Then from the time that your mother died up to the time that your brother got married,you and your sister and brother all lived at the house of the prophet? A:-Yes sir.

219 Q:-Who also lived there at that time besides the family?-~~who also lived there besides the family,-who else lived there in the house besides Joseph Smith's family,-who and the members of his family,-that is,besides Emma and the children he had by her?~~ A:-Well,besides who,-whose family? I don't know what you mean.

220 Q:-Well I am talking about Joseph Smith's family,-who also lived there in the house besides Joseph Smith and the members of his family,-that is,besides Emma and the children he had by her? A:-Well there was two of Bishop Partridge's daughters there.

221 Q:-Two of Bishop Partridge's daughters were there at the same time you say? A:-Yes sir.

222 Q:-Were they there all the time? A:-Yes sir.

223 Q:-That was the place they stayed all the time? A:-Yes sir.

224 Q:-What were they doing there? A:-Well that was their home.

225 Q:-Well they remained there until his death ~~you say~~ did they? A:-I am not sure about that. I am not positive on that point.

226 Q:-Well you lived there you said,and you ought to know? A:-Well after I went away with my brother,I am not positive whether after that they lived there constantly or not. I know that they considered it their home,and I am rather of the opinion that they

stayed right there,though I could not be positive.
227 Q:-Then the prophet's family,in addition to himself and his wife,Emma and their children,consisted of you and your sister and brother and two of Bishop Partridge's daughters? A:-Yes sir,but there was another one,for I had two brothers there.
228 Q:-You had two brothers there instead of one? A:-Yes sir.
229 Q:-Then there was four of your family and two of the bishop's girls,besides the prophet and his wife Emma and their family? A:-Yes sir.
230 Q:-Was there any body else there from the time that you went there in '42 until the time that he died? A:-Yes sir.
231 Q:-Who were they,-give their names? A:-The Lawrence girls were there,-the Lawrence sisters were there a part of the time at least.
232 Q:-How many of them was there? A:-There was two of them.
233 Q:-When were they there,-was it the same time you were there? A:-Yes sir.
234 Q:-You were all there at the same time? A:-Yes sir.
235 Q:-Were they there when you left? A:-They were not there prior to the time of moving into the mansion house.
236 Q:-Well from the time that the family moved into the mansion house up to the time that you left with your brother they were there,and you left them there when you left,did you not? A:-I really do not remember whether they left before my brother did or not.
237 Q:-Did Joseph Smith keep hotel there? Yes sir.
238 Q:-Then you were there as servant girls,all of you,-were you not? A:-No sir.
239 Q:-Do you swear that you were not there as servant girls in the house? A:-No sir we had nothing to do with the house,-with the hotel,for he had a negro cook and a black washer-woman,and he hired a girl to look after the dining room,and we looked after the rest of the house.
240 Q:-Well what did you do in your duty of looking after the rest of the house? A:-We did whatever was necessary,-some of us did sewing for the family,and as young Joseph said,it was my privilege to get them off to school in the morning,-and that was about all that I had to do.
241 Q:-Then neither yourself nor your sister,nor the Lawrence girls were employed there for any purpose? A:-No sir.
242 Q:-You just lived there? A:-Yes sir,that was our home and Joseph did not look upon us as servants.
243 Q:-How did Emma his wife look upon you? A:-She did not look upon us as servants either.
244 Q:-He furnished you clothing for what you did? A:-Yes sir,and took care of the house and did the sewing and all that sort of thing.
245 Q:-Did he hire to go there,or did Emma hire you? A:-We were not hired to go there at all. There was nothing of the servant about our being there. We were not hired at all.
246 Q:-Well you were asked to go there,-you did not go without being asked? A:-I expect not.
247 Q:-Well did he ask you to go there,or did Emma? A:-Well he asked us to come there and so did Emma. Joseph Smith was very fond of children and had a large family,and when our mother passed away,he invited us to come there and make it our home.
248 Q:-And that is how you came to be there? A:-Yes sir.
249 Q:-Well now was it in the mansion house that he taught you polygamy? A:-Yes sir.
250 Q:-It was in the mansion house that he first taught you polygamy?

A:-No sir,it was not there.

251 Q:-Did you not just say that it was in the mansion house that he taught you polygamy? A:-Yes sir,but I did not say that that was where he first tauhgt,for it was before that that he taught it to me. You see he did not move into the mansion house until the fall of '43 and I was taught that by him before that.

252 Q:-In the fall of '43 in,-in what month was it that you moved into the mansion house? A:-It was in November '43 I think.

253 Q:-Have you not been testifying that you went there when your mother died in 1842? A:-Well that is right for we did go into the prophet's home that was on the bank of the river first,but when the mansion house was finished we went into that in the fall of 1843,bu but before that we lived on the bank of the river.

254 Q:-What was that house called? A:-Well it was called the prophet's home or the prophet's house,-I forget which.

255 Q:-It was called the prophet;s home? A:-Yes sir,I think so.

256 Q:-How big was that house? A:-Well it was quite big, or large enough to make all the family comfortable that was there.

257 Q:-Well was that the hotel building? A:-No sir,but there was so many strangers coming there from distant quartesr to Nauvoo,who would be seekers after the truth and such as that who wanted entertainment,that that was the reason that the mansion house was built so that there might be room for entertainment.

258 Q:-And that was the mansion house? A:-Yes sir,for that house was always full,and that was the reason the mansion house was built.

259 Q:-Well what did all you females do that were there in that house? A:-We all did whatever there was for us to do.

260 Q:-Did any of them marry? A:-They did,and whenever they married the prophet gave them,-or did for them whatever was necessary to furnish their home and make them comfortable.

261 Q:-Who did he do that for? A:-My brother.

262 Q:-Well I was asking you about the girls that were there,-your sister,the Lawrence girls and the Partridges? A:-I thought you meant my brothers.

263 Q:-When your brother married Joseph Smith gave him some assistance? A:-Yes sir,he helped him off in the world as well as he could,for the prophet was a very kind,thoughtful,big-hearted man.

264 Q:-When your brothers were living there did they work for the prophet? A:-Why certainly they did,-they were industrious boys and were never idle.

265 Q:-Well what did they do? A:-Whatever there was to do.

266 Q:-Was there,-did they work around the house and in the garden? A:-Yes sir.

267 Q:-Were you always busy? A:-Yes sir.

268 Q: -What were you doing? A:-Oh we were not idle,-we were always busy,almost,for there was enough around the house for us to do. We were not idlers. There were no idlers in Nauvoo at that time.

269 Q:-Well what particular work did you do? W:-Well I did sewing mostly,but of course after we moved into the mansion house there was a great deal to be done, fitting up and getting things in shape.

270 Q:-That did the Partridge girls do? A:-Well the elder one was a tailoress and she did that kind of sewing, and her sister was around with the young children a good deal.

271 Q:-Now do you pretend to say that all the girls whom you have named were not there working for the prophet,and that you did not go out and work for wages on the outside? A:-No sir,indeed we did not for that

was our house,and there was not one of us that was working there or any other place for regular wages.
272 Q:-You want the record to show that you and all these other girls were there working for the prophet,and ~~th~~ that it was the home of all of you? A:-Well now I don't remember how long the Lawrence girls stayed there. If I remember the Lawrence girls,-well I could not tell you how long they were there,but their home was there when they was there.
273 Q:-The Lawrence girls were married too,to the prophet, were they not? A:-Yes sir.
274 Q:-And you were also married to him? A:-Yes sir.
275 Q:-You were there at the weddings? A:-No sir.
276 Q:-You were not? A:-No sir.
277 Q:-Why not? A:-Weddings were not performed publicly in those days.
278 Q:-Now you say that you were not present at these marriages,-at the weddings? A:-Yes sir.
279 Q:-I mean of the Lawrence girls to the prophet? A:-No sir.
280 Q:-Yet you say of your own knowledge that you were married to him? A:-Yes sir.
281 Q:-How do you know that if you were not present? A:-I was present when I was married to him I think,-it is highly probable that I was there.
282 Q:-I meant to ask you how it is that you could swear that the Lawrence girls were married to Joseph Smith when you were not present at the weddings,-you are swearing remember to things within your own knowledge and I would like to know how that came to your knowledge if I did not see it? A:-Well I was associated with them there,and they told me so,and the prophet told me so himself.
283 Q:-And you and your sister were both married ti him? A:-No sir,my sister was not.
284 Q:-Well you were? A:-Yes sir.
285 Q:-And the Partridge girls were also married to him? A:-Yes sir,and moreover Emma knew that they were married to him.
286 Q:-You mean Emma Smith,the wife of Joseph Smith? A:-Yes sir,she knew they were married to him.
287 Q:-Well I move to exclude that part of the answer as to what Emma Smith knew from the record on the ground that it is not responsive to the question. I did not ask you anything about what she knew. Just answer my questions simply,and we will get along much better. How you were all married in '42 to him? A:-I can't say.
288 Q:-Well what is your best recollection about that? A:-I can't say,for I haven't any recollection about it,as I was not there when they were married to him. I don't know anything about the time of their marriage beyond the fact that they were married,and I got that from Joseph and themselves,so I presume it was true.
289 Q:-Well you say you knew they were married? A:-Yes sir,I know it simply from their telling me so.
290 Q:-Did the prophet tell you so too? A:-He did.
291 Q:-Who was married to him first? A:-I can't tell you.
292 Q:-Do you know who was the first plural wife he married? A:-No sir.
293 Q:-In what month and what day of the month were you married to him? A:-Well I have just told you what it was.
294 Q:-I don't understand that you did? A:-Yes sir,I did.
295 Q:-I think you are mistaken? A:-No sir,I am not. I told you.

296 Q:-Well if you have it has escaped my attention,and the quickest way to settle this is to tell me again? A:-It was in May in 1843.
297 Q:-Oh yes,I recollect now,-it was the first day of May 1843 wasn't it? A:-Yes sir,that is what I told you.
298 Q:-When was your sister married to him? A:-My sister Catherine?
299 Q:-Yes madam? A:-Never.
300 Q:-What? A:-Never?
301 Q:-Did you not say that your sister was married to him also? A:-No sir,on the contrary I said that she was not.
302 Q:-When was Emily D. P. Young married to him? A:-I don't know.
303 Q:-Well about when was it? A:-I don't know anything about their affairs. She has been here and has given her testimony I understand,and she is the one you ought to ask about that,for she knows more about it than I do,that is certain.
304 Q:-Your sister was there at the mansion as well as yourself when you was married? A:-Yes sir.
305 Q:-And she was present at the wedding? A:-No sir.
306 Q:-Why was she not present? A:-She knew nothing about it.
307 Q:-She knew nothing about it? A:-No sir.
308 Q:-Well who was present at the wedding ceremony? A:-I have just told you.
309 Q:-Who performed the ceremony? A:-I told you that as well.
310 Q:-What is that? A:-I just told you that,I said.
311 Q:-Well I don't recollect that you did? A:-Well I did.
312 Q:-Well please state it again? A:-I have told you once plainly,and I decline to repeat over and over again what I have stated once. I am willing to tell you all I know about this,but I must decline to repeat it over and over again to you or to any body else.
313 Q:-Well I believe you will be kind enough to waive that and tell me who married you? A:-Well I told you it was Elder William Clayton.
314 Q:-William Clayton was the elder that married you? A:-Yes sir.
315 Q:-Now William Clayton and the prophet and yourself were the persons present at the performance of that ceremony? A:-I did not say so.
316 Q:-Was there any one else present? A:-Yes sir.
317 Q:- Who was it? A:-I have told you that too,already.
318 Q:-Well Mrs,Kimball I will tell you that it is our right to cross examine in the way that we see fit, and we propose to do it,so you might make up your mind to answer all the questions we ask you at once, no matter if we only ask them once or a dozen times; but I shall endeavor however not to ask you the same question twice if I can help it,unless I have a special object in doing so. Now I will ask you who was present besides William Clayton,the prophet and yourself at the time you say you married the prophet? A:-I have told you.
By the examiner,-
319 Q:-Answer the question,if you know? A:-Eliza Partridge.
By Mr.Kelley,-
320 Q:-That was the eldest daughter of the bishop? A:-Yes sir.
321 Q:-And that was on the first day of May 1843? A:-Yes sir.
322 Q:-Now where did the ceremony take place,-was it in the temple or in the mansion? A:-It was in neither.
323 Q:-Well where was it? A:-It was in our old home.
324 Q:-In your old home that you had moved from? A:-Yes sir.
325 Q:-Who was living in your old home? A:-The family.
326 Q:-Who family? A:-The prophet's family.

326 Q:-Whose family? A:-The prophet's family.
327 Q:-Oh,it was the prophet's family? A:-Yes sir.
328 Q:-Was Emma present? A:-She was not.
329 Q:-She had consented to the marriage,of course? A:-She did not consent to my marriage.
330 Q:-Did she oppose?it? A:-She did not know anything about it at all.
331 Q:-Then she did not know anything about your marriage to her husband? A:-No sir.
332 Q:-What room did you occupy the night after your marriage,-that is,the night of the first day of May 1843? A:-What room did I occupy?
333 Q:-Yes,you and the prophet? A:-Well,that is a matter I shall not answer.
334 Q:-You decline to answer it? A:-I do.
335 Q:-Did you occupy the same room with Joseph Smith on the night of the first day of May 1843? A:-I decline to answer these questions.
336 Q:-Did you ever occupy the same room and the same bed with Joseph Smith at any time,particularly on the night of May first 1843? A:-I decline to answer the question,and there is no law that will permit you to do so,or uphold you in intruding into my private affairs.
337 Q:-Do you ~~still~~ decline to answer the question I ask you on the ground that your answers might tend to criminate you? A:-No sir.
338 Q:-Then why do you decline to answer them? A:-Because I consider them insulting,sir.
339 Q:-You do? A:-Yes sir.
340 Q:-Your feelings have grown more delicate now than they were forty eight or nine years ago,-they grow more mellow and refined with age? A:-I don't know about that,-
341 Q:-Your feelings were not so tender when in 1843 you married a man who at that time to your knowledge had four or five other women living with him as wives, according to your statement,-and imposed yourself upon his innocent wife,and deceived her,by joining in that kind of an alliance with her husband,-that was not insulting,but now when I ask you a question that I have a perfect right under the law to ask you you say it is insulting? A:-No sir,not in the light that we accepted it.
342 Q:-And it is not insulting at this late date after the man whom you have maligned is dead and cannot be to deny or refute your story for you to come up and tell this tale,which if true would forever dishonor his memory,-there is nothing dishonorable or insultin in that,-there is nothing dishonorable or insulting in your attempting to palm yourself off as the wife of a man who is dead,and never for a moment in his life did anything to countenance your pretentions? A:-Yes sir,he would speak if he was here,-he would speak in tones of thunder.
343 Q:-Well I would like to hear him speak it,for he was very careful never to do so in this life,-he was careful never to acknowledge you as his wife either in tones of thunder or any other kind of tones? A:-Well he would,-he taught that principle,and while you may scoff at us we yet believe the principle,and it is sacred with us.
344 Q:-Did he ever introduce you as his wife? A:,Yes sir.
345 Q:-To whom did he introduce you as his wife? A:-To the twelve apostles or some of them.

346 Q:-When did he do that? A:-Do what?
347 Q:-Introduce you as his wife to the twelve apostles? A:-I said it was to some of them.
348 Q:-Well when was it? A:-Well I can't say,-it was not long though before he died. He did not live very long after that.
349 Q:-That was shortly before he died? A:-Yes sir.
350 Q:-Well I would like for you to mention one man that he introduced you to as his wife? A:-Heber C. Kimball
351 Q:-Is that all? A:-And Brigham Young.
352 Q:-Heber Kimball is dead? A:-Yes sir.
353 Q:-And so is Brigham Young? A:-Yes sir.
354 Q:-Well was there any more? A:-I don't know.
355 Q:-Well there is quite a number of the apostles now living? A:-Well I o,there is some of them,but not many.
356 Q:-William Smith was an apostle at that time wasn't he? A:-Yes sir,I expect he was.
357 Q:-He was one of the first apostles in the church wasn't he? A:-Yes sir.
358 Q:-He was made an apostle at Kirtland Ohio.wasn't he? A:-Yes sir,I believe so.
359 Q:-You saw him frequently did you not? A:-Well I did occasionally.
360 Q:-Did the prophet ever introduce you to him as his wife? A:-I don't think so, I don't know.but I think not.
361 Q:-Did he ever introduce you to Hirum Smith as his wife? A:-Yes sir.
362 Q:-Hyrum Smith is dead too,is he not? A:-I should think he was.
363 Q:-Can you name a single solitary man,-either an apostle or any officer in the church,that is now living to whom you were introduced by Joseph Smith as his wife? A:-I cannot.
364 Q:-You cannot? A:-No sir.
365 Q:-There is not a single solitary individual now living,whether an apostle in the church at the time of Joseph Smith's death,or any other officer in the church,to whom the prophet introduced you as his wife? A:-No sir,I can't do that,for the reason that it was not made public.
366 Q:-You went to church with him as his wife? A:-I did not.
367 Q:-You appeared at his funeral as a mourner and his wife? A:-Well I know I mourned his departure deeply.
368 Q:-You appeared as a mourner at the funeral? A:-I appeared as a member of the family.
369 Q:-As a mourner for him? A:-Yes sir.
370 Q:You remember about the funeral? A:-Yes sir,for the funeral was at our house,-at the mansion.
371 Q:-It was at the mansion? A:-Well if was from the mansion. It started from there.
372 Q:-And you went along with Emma to the funeral? A:-I went along with the rest of the family.
373 Q:-Who went? A:-Those that lived there in that house.
374 Q:-Did you go with Joseph and Emma and Alexander? A:-No I went with Agnes.
375 Q:-What was she? A:-Don Carlos Smith's widow.
376 Q:-I am asking you if you went with Emma Smith,the prophet's wife? A:-I went with the children,with the family,and Agnes went along.
377 Q:-With whose family? A:-With Joseph Smith's family that lived there in the house.

378 Q:-You went to the funeral? A:-Yes sir.
379 Q:-With Emma Smith and Alexander and Joseph and David A:-Yes sir.
380 Q:-And Fred? A:-Yes sir.
281 Q:-And with Frederick too? A:-Yes sir.
382 Q:-Was that all? A:-Yes sir,and with my brothers too.
383 Q:-You swear positively to that? A:-Yes sir,of course I do.
384 Q:-You occupied the same seat with Emma and Joseph and David and Alexander? A:-Well I can't say who I sat by,or anything about it,but I was there.-
385 Q:-That is a circumstance that never happened but the once? A:-Well I hope not.
386 Q:-Where did the funeral take place? A:-At the mansion.
387 Q:-Who preached the sermon? A:-That is something I can't tell you anything about.
388 Q:-Well was there any sermon preached? A:-I can't tell you anything about that.
389 Q:-You know though that there was a funeral? A:-Yes sir.
390 Q:-And you were there? A:-Yes sir.
391 Q:-But you can't tell who preached the sermon? A:-No sir.
392 Q:-It was the funeral of your husband and you do not know anything about what occurred there? A:-Not much. You should remember the circumstances,and we were perfectly overwhelmed with what had occurred.
393 Q:-Overwhelmed with what? A:-With sorrow and grief at what had occurred.
394 Q:-You were not so overwhelmed but that you knew it was the funeral of your husband? A:-Yes sir,I knew it was Joseph Smith that had been murdered in cold blood sir.
395 Q:-And you were not so overwhelmed but that you know whether therewwas a sermon preached or not,were you? A:-Well the fact is I remember very little of the service.
397 Q:-Was Emily Partridge present? A:-I can't tell you.I don't remember anything ~~about~~ much about it whether she was there or not. I don't remember about these things.
398 Q:-Was Elizabeth Partridge present? A:-I can't tell you that either.
399 Q:-Do you remember anybody that was there? A:-I remember that the family was there.
400 Q:-Were either of the Lawrence girls there? A:-Yes sir,they lived in the house and of course they were there.
401 Q:-Well do you remember whether or not they were there? A:-I say I can't remember anything about it but of course they were there as they belonged to the family,and the whole family was there.
402 Q:-Do you know where he was buried? A:-I do.
403 Q:-Where was he buried? A:-I decline to answer the question.
404 Q:-Do you decline to answer that question? A:-I do.
405 Q:-Do you decline to answer it because you don't know or because you do know where he was buried? A:-It is because I do know and I will not tell you.
406 Q:-Have you at any time taken an obligation not to answer that question? A:-Well that is my business.
407 Q:-Who told you where he was buried? A:-I decline to answer that question.
408 Q:-Do you decline to answer that question about where

378 Q:-You went to the funeral? A:-Yes sir.
379 Q:-With Emma Smith and Alexander and Joseph and David A:-Yes sir.
380 Q:-And Fred? A:-Yes sir.
381 Q:-And with Frederick too? A:-Yes sir.
382 Q:-Was that all? A:-Yes sir,and with my brothers too.
383 Q:-You swear positively to that? A:-Yes sir,of course I do.
384 Q:-You occupied the same seat with Emma and Joseph and David and Alexander? A:-Well I can't say who I sat by,or anything about it,but I was there.-
385 Q:-That is a circumstance that never happened but the once? A:-Well I hope not.
386 Q:-Where did the funeral take place? A:-At the mansion.
387 Q:-Who preached the sermon? A:-That is something I can't tell you anything about.
388 Q:-Well was there any sermon preached? A:-I can't tell you anything about that.
389 Q:-You know though that there was a funeral? A:-Yes sir.
390 Q:-And you were there? A:-Yes sir.
391 Q:-But you can't tell who preached the sermon? A:-No sir.
392 Q:-It was the funeral of your husband and you do not know anything about what occurred there? A:-Not much. You should remember the circumstances,and we were perfectly overwhelmed with what had occurred.
393 Q:-Overwhelmed with what? A:-With sorrow and grief at what had occurred.
394 Q:-You were not so overwhelmed but that you knew it was the funeral of your husband? A:-Yes sir,I knew it was Joseph Smith that had been murdered in cold blood sir.
395 Q:-And you were not so overwhelmed but that you know whether there was a sermon preached or not,were you? A:-Well the fact is I remember very little of the service.
397 Q:-Was Emily Partridge present? A:-I can't tell you.I don't remember anything about it whether she was there or not. I don't remember about these things.
398 Q:-Was Elizabeth Partridge present? A:-I can't tell you that either.
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403 Q:-Where was he buried? A:-I decline to answer the question.
404 Q:-Do you decline to answer that question? A:-I do.
405 Q:-Do you decline to answer it because you don't know or because you do know where he was buried? A:-It is because I do know and I will not tell you.
406 Q:-Have you at any time taken an obligation not to answer that question? A:-Well that is my business.
407 Q:-Who told you where he was buried? A:-I decline to answer that question.
408 Q:-Do you decline to answer that question about where

he was buried? A:-Yes sir.

409 Q:-Why do you decline to answer those questions? A:-Well I have a reason.

410 Q:-What is the reason? A:-Because it has nothing to do with this case.

411 Q:-You set yourself up as a judge and jury, and pass on what is competent or relevant to the issues of this case? A:-Well I will not tell you where it is.

412 Q:-Then you decline to answer any question I may ask you about that? A:-I decline to answer any question on that subject.

413 Q:-You decline to answer any questions on that subject,-on the subject of where Joseph Smith is buried? A:-Yes sir.

414 Q:-For what reason? A:-Well because I don't wish to do so.

415 Q:-You can't tell even who it was told you where he was buried? I am not askin, you where he was buried but simply who told you where he was buried? Do you also decline to answer that question? I have you to tell us who told you where he was buried, and you can't even tell us who told you that? A:-Is there any need of my saying that anybody told me?

416 Q:-Well I would like to know if you can tell me that, I would like for you to do so if you can? A:-Well I decline to answer the question, because the circumstances are very trying, and you should not ask me questions like that.

417 Q:-You were so overwhelmed that you can't tell me anything about that? A:-Well I am not goin to tell you and that is all there is to it.

418 Q:-But you are willing to swear before God that you attended the funeral of Joseph Smith with Emma Smith and with Joseph Smith and Alexander and David? A:-All those that were in the house there, of course I attended with them.

419 Q:-You attended the funeral ~~with~~ as Joseph Smith's wife did you? A:-It was not known or acknowledged that I was his wife.

420 Q:-You say it was not known or acknowledged that you were his wife. A:-No sir, not known generally. Of course there was a few know it but it was not generally known.

421 Q:-Then you did not appear there as his wife? A:-No sir, of course I did not.

422 Q:-Have you not said in this examination that you did appear there as his wife? A:-No sir.

423 Q:-If the record shows that you have so stated the fact to be, what have you to say? A:-Well it is a mistake for I did not say any such thing, or I did not intend to, for it was not generally known at all that I was his wife. It was kept a secret for prudential reasons.

424 Q:-Then you did not appear there as his wife? A:-No sir.

425 Q:-Well that is what I wanted to know long ago? A:-Of course it was not proclaimed publicly that I was his wife, and that is what I told you long ago.

426 Q:-Did Emily Partridge appear there as his wife? A:-Well that is a question you will have to ask her yourself. You will have to ask her these questions for I can't answer them.

427 Q:-You can't say as to that? A:-No sir, I don't know anything at all about her affairs.

428 Q:-Did either of the Lawrence girls appear there as his wife?

By Mr. Canell,-"We object to the question for the reason that the witness does not know anything about it, and has so stated."

By Mr. Kelley,-

429 Q:-What name did you go by all this time? A:-All of what time.
430 Q:-From the time that you married Joseph Smith up to the time of his death? A:-I went by my own name.
431 Q:-You went by the name of Lucy W. Walker? A - Lucy Walker.
432 Q:-And the Lawrence girls went by their maiden names also? A:-Yes sir, for under tha circumstances we could not go by his name there.
433 Q:-Why could not go by his name if you were married to him?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not cross examination, and calls for an opinion of the witnes
A:-Well there was a reason for it.
434 Q:-Well what was the reason? A:-Because the time had not come when we could do so.
435 Q:-What time? A:-The time when we could be acknowledged as his wives.
436 Q:-Was there any particular time fixed when you could go by his name? A:-Yes sir.
437 Q:-Who fixed the time when you could and would be known as his wives?
Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that it is incompetent, irrelevant and immaterial, and not cross examination.
A:-Well, President Smith himself said that day rcula come.
438 Q:-Well has that day over come? A:-Yes sir.
439 Q:-Well when were you known as Lucy W. Smith? A:-It was here.
440 Q:-Where? A:-In the Valley here. In the Territory of Utah.
441 Q:-The time never came then until you came out here to Salt Lake? A:-No sir.
442 Q:-Who proclaimed the time? A:-The prophet himself.
443 Q:-Was it Brigham? A:-No sir.
444 Q:-Well then who was it? A:-The prophet Joseph Smith.
445 Q:-Where? A:-In Nauvoo.
446 Q:-Well what was it,-what did he say? A:-He proclaimed repeatedly that we would go beyond the mountains, although his son has said that he did not.
447 Q:-Where did he make that declaration? A:-He made it publicly.
448 Q:-In his published works did he make that statement? A:-Yes sir.
449 Q:-Is it printed anywhere? A:-Yes sir, and I can show it to you too.
450 Q:-In what book or work is it printed?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not cross examination.
A:-Well it don't matter, for he did make that declaration,- of that there is not any doubt.
451 Q:-Well did he make it in a work printed in his lifetime?
Counsel for the defendants objects to the question for the reasons above set forth.
A:-He made the declaration.
452 Q:-I asked you if you could show it to me anywhere in anything that was printed during his lifetime? A:-Well I think so.
453 Q:-What book will it be in? A:-It is there all right.
454 QX:- Is it in the Times and Seasons or in the Morning Star or any other publication or book printed during

his life time? A:-It is in the Millenial Star I think.

455 Q:-Was that printed during his life time? A:-Well I think not. I don't think it was.

456 Q:-When was it printed? A:-I don't know when it was printed.

457 Q:-Do you know where it was printed? A:-I know it was there and is there too because I have it in my possession sir.

458 Q:-Do you know where the Millenial Star was printed? A:-Yes sir.

459 Q:-Where was it printed? A:,In Liverpool,and that was in England sir.

460 Q:-That is in England? A:-Yes sir.

461 Q:-And Joseph Smith lived in America? A:-Yes sir.

462 Q:-And never was in England? A:-I believe not sir. He has his agents there though.

463 Q:-How many children did you have by virtue of your marriage with Joseph Smith? A:-I decline to answer that question sir.

464 Q:-Did you have any? A:-I decline to answer that question.

465 Q:-Have you any children by Joseph Smith? Do you decline to answer that question too? A:-I decline to answer the question.

466 Q:-Why do you decline to answer it? A:-Well I think that is my business and none of yours. The principle by which we were married is an eternal principle,and will endure forever.

467 Q:-That is your judgment that you are giving expression to now? A:-Yes sir,I know it.

468 Q:-How do you know it? A:-Well it is sufficient that I know it.

469 Q:-Was the Lord ever told you? A:-Yes sir. I know it as well as I know that I exist.

470 Q:-Now is it not a fact that you were just sealed to Joseph Smith for eternity? A:-No sir,it was for time and all eternity.

471 Q:-Well did you raise a child by him? A:-I decline to answer the question.

472 Q:-Did you ever occupy the same bed with him? A:-I decline to answer the question.

473 Q:-You say you will not answer any of these questions.
A A:-I do,-not on that subject.

474 Q:-Did you ever see a child that you was Joseph Smith's outside of David,Alexander,Frederick and Joseph? A:-I decline to answer that question.

475 Q:-Why do you decline to answer it? A:-Well it belongs to a secret part of my religion.

476 Q:-Is that something that you have taken an oath not to divulge? A:-I don't consider that any man or any law could compel me to answer such questions.

477 Q:-And that is the reason you decline to answer these questions? A:-Yes sir,for I don't think any one has a right to ask such questions with the expectation that I should answer them.

478 Q:-You believe now in polygamy just the same as you always did?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and not cross examination.

A:-I do,more firmly than ever. I believe that it was the command of God and should be obeyed.

479 Who were you married to after you married Joseph Smith? A:-To Heber C. Kimball.

480 Q:-What time were you married to him? A:-In the latter part of 1845.

481 Q:-That was the time that you were married to Kimball A:-Yes sir.
482 Q:-Were you married in Nauvoo? A:-Yes sir.
483 Q:-Will you give me the exact date when you were married to Heber C. Kimball? A:-I cannot, I don't think I can do that.
484 Q:-Then you do not recollect the exact date? A:-No sir
485 Q:-Do you recollect the month? A:-I do not.
486 Q:-What place were you married at? A:-I was married in Nauvoo.
487 Q:-That place in Nauvoo? A:-In the temple.
488 Q:-Who performed the ceremony? A:-President Young.
489 Q:-Was he president of the church then? A:-Yes sir.
490 Q:-You are positive of that? A:-Well we acknowledged him as the president.
491 Q:-Who did? A:-Those who were followers of the prophet acknowledged him,-that is,acknowledged President Brigham Young as the President of the church.
492 Q:-That was in 1845? A:-I think so. Yes sir I am quite positive it was in the latter part of '45.
493 Q:-And you are just as positive of that as you are of any thing else you have testified to here? A:-Well not so much,-no it was in '46,for it was in '46 that we were married.
494 Q:-And so it was in '46 that you were married to Heber C. Kimball? A:-Yes sir.
495 Q:-And it was in the temple there at Nauvoo? A:-Yes sir.
496 Q:-Was Kimball President then too? A:-Well I suppose he was President. It is very likely that he would be.
497 Q:-I asked you if Kimball was President of the church then? A:-No sir.
498 Q:-Well was Brigham Young the president of the church then,-that is at the time that you were married? A:-Well we acknowledged Brigham Young in our hearts and feelings.
499 Q:-Was Kimball a counselor to the president then or was he a member of the twelve? A:-He was a member of the twelve then I think,but I don't think they were re-organized then.
500 Q:-Was Brigham Young a member of the Twelve then? ~~A:-Yes sir,I think he was the President of the Twelve~~ ~~then as he was before, That is the way I think it~~ ~~was.~~ A:-Yes sir,I think he was the President of the Twelve then as he was before, That is the way I think it was.
501 Q:-Well if not,is the case who was the president of the church? A:-Well no,I don't think at that time that the re-organization or organization under the new condition of things after the prophet passed away had taken place,but we acknowledged Brigham Young as our leader.
502 Q:-You acknowledged him as your leader? A:-Yes sir.
503 Q:-Who did that? A:-The church did. After President Joseph Smith passed away,the church had to have a head or leader and it acknowledged President Brigham Young as its leader,but at the time I was married I don't think the organization had been effected by which he was formally made our president.
504 Q:-Did you acknowledge Brigham Young as your leader, or did you acknowledge the Twelve as your leaders? A:-Well for a time the twelve apostles were,but afterwards they were organized into a Presidency and Councellors.

505 Q:-Well did that organization take place during the time that you lived in Nauvoo? A:-Well I can't tell you the time exactly, I can't tell you the time for I don't remember the date.
506 Q:-Don't you remember that it was done at Winter Quarters? A:-I don't remember the time that was done,but I know that until the time of the organization into

a Presidency and Councellors that the Twelve were looked to as the head of the church.

507 Q:-You were the wife of one of the apostles all the time? A:-Yes sir,from the time I married Mr.Kimball I was.

508 Q:-Well who did you marry before you married ~~SSSS~~ Kimball besides Smith? A:-Well that is a question.

510 Q:-Yes,madam,that is a question,and I expect you to answer it? A:-Well I decline to answer any such a question.

511 Q:-How many men did you marry before you married Kimball,besides Smith? A:-I decline to answer.

512 Q:-Do you decline to answer that question? A:-I do.

513 Q:-Why do you decline to answer it? A:-Well it is not likely that I married any one.

514 Q:-Well did you? A:-I did not.

515 Q:-How many wives did Kimball have at the time you married him,besides yourself? A:-Well I never asked him to find out.

516 Q:-how many did he have before his death,besides yourself? A:-I think you would have to go to the records for that.

517 Q:-Well do you know ? A:-No sir.

518 Q:-You answer that you do not know how many wives Kimball had besides yourself after he married you,or at the time he married you,and before his death? A:-I don't know.

519 Q:-Well do you know of any? A:-I only know about my own affairs,for that is what I attended to and did not mind other people's affairs.

520 Q:-Do you know how many he had when he married you? A: A:-No sir.

521 Q:-Did you not even ask him whether he had more wives than you? A:-No sir,I did not.

522 Q:-You did not? A:-No sir.

523 Q:-Why did you not ask him that question? A:-I did not because I understood that principle.

524 Q:-You were just so anxious to get married that you did not care whether you married a man that had one wife or a dozen wives,-that was a matter of so much, of so little importance to you in your anxiety to get married that you did not even ask the question? A:-That is what is the matter.

525 Q:-It did not make any difference to you whether he had one wife or a dozen,-is that what I understand you to say? A:-Yes sir.

526 Q:-That was the way it was? A:-Yes sir.

527 Q:-The principle was all you were workin, for? A:-Yes sir,for I knew it was a true principle.

528 Q:-There was not any love in the union between yourself and Kimball? A [illegible]

529 Q:-Was there any courtship? A:-That is my business entirely.

530 Q:-Well answer the question? Was there any courtship between you and Kimball?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent ,irrelevant and immaterial,and not proper cross examination.

531 Q:-Answer the question,-was there any courtship between you and Kimball?

Counsel for the defendants objects to the question asked the witness for the reasons above set forth.

A:-It was the principle of plural marriage that we were trying to

-an race if we had established it. That is what we were trying to establish,-a great and glorious and true principle,-and if we had established it it would have been for the benefit of the whole human race,and the race will say so yet.

532 Q:-That is your belief? A:-Yes sir,and the day will come when you will doff your hats to the plural wife system,much as you may sneer at it now.

533 Q:-You know that? A:-Yes sir,I do,for they have been a noble self-sacrifice.

534 Q:-Who have made a noble sacrifice of self? A:-The plural wives.

535 Q:-Well when I come to that belief I will apologize to you for what I have been saying.

~~XXXXX~~ A:-Well you will need to,for if you live long enough you will do that sir. I am proud sir of my associations in that regard,-and have nothing to fear or be ashamed of either in this world or the world to come. That principle is sacred,as holy and as divine as God himself,and you will see the day when you will acknowledge it.

536 Q:-You know that also? A:-I do.

537 Q:-Well I very much fear that is a prediction that will never come to pass? A:-Well it will.

538 Q:-And that you will swear to also?
Counsel for the defendants objects to the question as immaterial and not cross examination.
A:-I know it will as well as I know I live.

539 Q:-Well then if that principle is as true and as holy as God himself,how is it that the church went back on it and said that the Lord did not command it at all? A:-Well the church will see the day when it will apologize for that sir.

540 Q:-Did you not consent to that manifesto with the rest of the church? A:-Yes sir,I did to President Woodruff.

541 Q:-You acknowledged it to President Woodruff? A:-Yes sir,much to my regret I did.

542 Q:-And are you going to acknowledge it again? A:-Not much. When the time comes for that principle to ~~time~~ rule,it is going to rule,and that time will surely come.

543 Q:-When will that time be? A:-When the Lord comes to rule again.

544 Q:-Well that will be when you are dead,and that will not do you any good? A:-Well,I will go to him and I will know then as well as I do now that it is true.

545 Q:-Then it don't make any difference whether it is now or in the hereafter? A:-No sir. It will be all right in eternity,of that I am sure.

546 Q:-You had children by Kimball? A:-Yes sir.

547 Q:-How many children did you have by Kimball? A:-I had nine,and he was a noble man if there ever was one stood on earth,and I am proud to know I bear his name

548 Q:-You are as proud to bear his name as you are to know that you practiced polygamy? Q:-Yes sir.

549 Q:-Well what is the name of the oldest child you had by Kimball? A:-John Heber Kimball.

550 Q:-That is the oldest one,-the oldest child you have?
A:-Yes sir.

551 Q:-When was he born? A:-He was born in '50.

552 Q:-Where? A:-Here.

553 Q:-He was born here in Salt Lake City in 1850? A:-Yes sir.

554 Q:-How did your sister marry Heber C. Kimball also?
A:-No sir.

555 Q:-Did the Lawrence girls also marry him? A:-No sir.

556 Q:-Neither your sister nor the Lawrence girls married Heber C. Kimball? A:-No sir.
557 Q:-Did the Partridge girls marry him? A:-No sir. Yes, I was mistaken in what I said for Sarah Lawrence did marry him.
558 Q:-She married Heber also? A:-Yes sir.
559 Q:-Did she marry him before you did, or after you did? A:-I don't know. I did not make any inquiries about that for it was nothing to me when she married him. That has nothing to do with me.
560 Q:-That has nothing to do with you? A:-No sir. You make not say anything about it for the life we lived was an honorable one. We have not lived a vile life sir.
561 Q:-Well I am not saying you did? A:-Well you insinuate it.
562 Q:-I beg your pardon madam, for while I may have my opinion on that matter, I have not insinuated anything of the kind, and have not any intention of doing so? A:-Well I judge from the remarks you made to me, of my friends that that was your opinion,-that we lived a vile life, and I feel so insulted that I cannot hold speaking as I do, for we have lived our lives and have many great sacrifices, and have tried to live purely and faithfully obey the laws of the church and the commandments of God.
563 Q:-Now Mrs. Kimball I am just trying to find out what the system is, and that is the reason I ask you these questions, and it is not because I feel curious to pry into something that you may think has nothing to do with this case, but to serve my clients as well as I know how. You must remember that we are attempting to put this matter before the Judge of the United States Circuit Court so that he will understand what this system is. You see I am a young man and I can be pardoned if I want to know something about these things. Now you say that Joseph Smith taught you poly,amy in 1842? A:-You don't go over all that again. I have told you the facts, and I don't wish to be tired out telling it all over again to you.
564 Will just answer my question, and it will be much better for you, and you will get away all the sooner, for I am resolved to get at the bottom of this thing, if possible, and I believe I shall. Now did you say that Joseph Smith taught you poly,amy in 1842? A:-I did.
565 Q:-He taught you the principle of polygamy in 1842? A:-Yes sir.
566 Q:-Now how early in 1842 was it, that he taught you that? A:-I can't tell you the date, nor even the month, but it was in 1842.
567 Q:-Do you mean to say that in the mansion house where you were living at the time? A:-No sir, it was at my old home.
568 Q:-The home where you lived with your mother? A:-No sir, it was at the old home where he lived before the mansion house was built or finished.
569 Q:-He taught you that at the old home? A:-Yes sir.
570 Q:-Was there any body present when he taught you that? A:-Well now look here,-that is my business sir, and I do not propose to tell you that or to tell any body else that. That is my business entirely and you have no right to pry into it.
571 Q:-I have not? A:-No sir, you have not.
572 Q:-Therefore that is another question that you decline to answer? A:-I do.
573 Q:-Well what did he say to you when he taught you that principle? A:-Well that is my business. Suffice it to say that he taught me that principle as a sacred and holy principle that would endure forever.

556 Q:-Neither your sister nor the Lawrence girls married Heber C. Kimball? A:-No sir.
557 Q:-Did the Partridge girls marry him? A:-No sir. Yes, I was mistaken in what I said for Sarah Lawrence did marry him.
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559 Q:-Did she marry him before you did, or after you did? A:-I don't know. I did not make any inquiries about that for it was nothing to me when she married him. That has nothing to do with me.
560 Q:-That has nothing to do with you? A:-No sir. You need not say anything about it for the life we lived was an honorable one. We have not lived a vile life sir.
561 Q:-Well I am not saying you did? A:-Well you insinuate it.
562 Q:-I beg your pardon madam, for while I may have my opinion on that matter, I have not insinuated anything of the kind, and have not any intention of doing so? A:-Well I judge from the remarks you made to one of my friends that that was your opinion,-that we lived a vile life, and I feel so insulted that I cannot help speaking as I do, for we have lived pure lives and have made great sacrifices, and have tried to live purely and faithfully obey the laws of the church and the commandments of God.
563 Q:-Now Mrs. Kimball I am just trying to find out what the system is, and that is the reason I ask you these questions, and it is not because I feel curious to pry into something that you may think has nothing to do with this case, but to serve my clients as well as I know how. You must remember that we are attempting to get this matter before the Judge of the United States Circuit Court so that he will understand what this system is. You see I am a young man and I can be pardoned if I want to know something about these things. Now you say that Joseph Smith taught ~~ye~~ you polygamy in 1842? A:-Now don't go over all that again. I have told you the facts, and I don't wish to be tired out telling it all over again to you.
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565 Q:-He taught you the principle o, polygamy in 1842? A:-Yes sir.
566 Q:-Now how early in 1842 was it that he taught you that? A:-I can't tell you the date, nor even the month, but it was in 1842.
567 Q:-He taught you that in the mansion house where you were living, at the time? A:-No sir, it was at my old home.
568 Q:-The home where you lived with your mother? A:-No sir, it was at the old home where he lived before the mansion house was built or finished.
569 Q:-He taught you that at the old home? A:-Yes sir.
570 Q:-Was there any body present when he taught you that? A:-Well now look here,-that is my business sir, and I do not propose to tell you that or to tell any body else that. That is my business entirely and you have no right to pry into it.
571 Q:-I have not? A:-No sir, you have not.
572 Q:-Therefore that is another question that you decline to answer? A:-I do.
573 Q:-Well what did he say to you when he taught you that principle? A:-Well that is my business. Suffice it to say that he taught me that principle as a sacred and holy principle that would endure forever.

574 Q:-And you believe that it will endure forever?
A:-Yes sir,that is my belief.
575 Q:-Well what did he tell you? A:-That is my business.
576 Q:-Did he tell you that a man could have more wives th than one? A:-Well he said that day was near.
577 Q:-That the day was near when a man could have more wives than one? A:-Yes sir. He said that the principle would be established and that the time was near when it would be established.
578 Q:-And he married you that day that he told you that? A:-No sir,I did not say so.
579 Q:-Well how long afterwards was it when he married you A:-Well I have told you the day that he married me.
580 Q:-I know that but you have not told me the day that he told you that,and I want to find out how long it was after he told you that before he married you. A:-Well I cannot tell you.
581 Q:-Well what did he say to you when he taught you polygamy? A:-I shan't say anything about it,for that is my business and not yours.
682 Q:-Well do you decline today to testify to anything only what you see fit to say? A:-I decline to tell you anything about that,for the reason that it is my business and not yours,and because you are asking these questions not for any useful purpose but simply for the purpose of worrying me.
583 Q:-That is merely an assumption of yours madam? A:-Well I think the facts prove it. This is all sacred to me,and for that reason I decline to tell anything about it.
584 Q:-Who called you here? A:-President Woodruff told me that I was wanted here,and when I came here I supposed all you wanted to know was that Joseph Smith had more wives than one.
585 Q:-Well that is not what we are specially interested in,-what he taught you is what we want to know? A:-Well what he taught me is what I will not tell you. I testified that I was his wife,and that is the truth,and I know that I am to be eternally his wife.
586 Q:-And you know you did not have any children by him? A:-Well now that is something that I did not tell you anything about at all. It is none of your business if he had twenty sons or children,and it is none of your business if we did not have any.
587 Q:-What did you consider Joseph Smith to be? A:-I considered him to be a man of God sir,-a great,good and holy man of God.
588 Q:-And you consider the present Joseph Smith to be your son,by virtue of the fact that you married his father,don't you? A:-I do not.
589 Q:-But you married his father? A:-Yes sir.
590 Q:-Then why do you not consider him to be your son? A:-If he will acknowledge me as his mother,and acknowledge his error and believe as I do,I shall be very happy to consider him ~~XXXXXXXX~~ as my son.
591 Q:-Well he would not believe as you do? Would he? Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not cross examination.
A:-I believe the day will come when he will,for I sincerely loved those boys and nothing would please me better than to see ~~XXXXXXXXXXXX~~ them renounce the error of their way.
592 Q:-Did he not tell you himself that you were not his mother? A:-He said his father had no more wives than his mother,and he knew at the time he said that,that he was telling a falsehood.

Counsel for the defendants objects to the question asked the witness as well as the answer of witness thereto, on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not cross examination, and moves the court to strike out the answer for the same reasons.

593 Q:-Did he not tell you that? A:-He did not, for we had no conversation on that subject.

594 Q:-Now how do you know he told a lie or falsehood, which is the same thing? A:-Because he knows better.

595 Q:-Did you ever hear him make a declaration to that effect that his father did not have more wives than one. A:-Yes sir.

596 Q:-Where? A:-In his lectures.

597 Q:-Well where was that? A:-In his lectures at Logan he said the question is not whether my father had more wives than one, but the question is, is it right. How did he not give himself away there.

598 Q:-I don't think so? A:-Well I do.

Counsel for the defendants objects to the question asked the witness above, and the answers of the witness thereto for the reasons above set forth.

A:-I don't think so any way. I know he said that,-that is not hearsay, for I was there on the stand and spoke to him and heard him.

599 Q:-Well what did he say to you? A:-He said this "I am very glad to see you, and I am not either afraid or ashamed to see you". Now what does that imply?

600 Q:-Well in my opinion it implies just this,-that he was not afraid or ashamed to meet you or anybody else? A:-Well whatever it implies I hope he will yet repent and come back to us.

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper cross examination, and moves the court to exclude from the record the last twenty four questions and answers.

A:-I knew it was right, and he had his doubts about it for he debated it in his own mind as is shown by his language. I knew it was right sir; do you think I would have done that,-and that sacrifice and virtually given my life away if I had not known it was right?

602 Q:-Well was it a question of right or wrong, with you? A:-It was.

603 Q:-Then why did you say Joseph Smith gave himself away when he said it was a question of right or wrong? A:-Well it proved to me, or at least satisfied my feelings that he knew that I was his father's wife. That is what it proved to me sir,-that he knew I was his father's wife.

604 Q:-That is the way you looked at it? A:-Yes sir.

605 Q:-Did he call on you? A:-He did.

606 Q:-How did he come to do that? A:-He called on me, for I told him I was very desirous of having a chat with him, but when he called I was not in.

607 Q:-You jumped to the conclusion that his father had more wives than one, and that he knew it from what he said? A:-Yes sir, I did. I knew that his father had more wives than one,-I knew that myself, and I believed he knew it also from what he said,-and I want to say right here now if you will allow me,-

608 Q:-Well wait a bit,-if I want anything from you I will

call on you for it. Now Mrs Kimball you say you cannot state a thing that the prophet said to you, when you say that he taught you polygamy? A:-I did not say so.

609 Q:-Well, you said that you would not? A:,Yes sir.

610 Q:-Why not? A:-Well it is something that does not belon to the world. It is something that the world has nothing to do with, and so I will not tell you.

611 Q:-Well it belonged to this world, for he told it to you in this world? A:-Well I will not say what it ~~is~~ was.

612 Q:-Well I insist upon the witness being compelled to answer these questions? My patience is about exhausted with a witness who sets herself up as judge, jury court and all, and so I insist upon the rule being enforced which compels witnesses to answer competent questions.

Counsel for the defendants objects to the question asked the witness and the speech of counsel asking it, for the reason that the question is not competent, and his remarks are uncalled for.

613 Q:-Will you answer that question? A:-No sir.

614 Q:-Well I can't stay here to see to this, but I would like to have you in court where they would put you you in jail for a year or two and see if you would not answer? A:-Well I would like to have you there too.

615 Q:-Well you can depend upon it if you were to be you would get it. Now you say he taught that to you in 1842?

Counsel for the defendants objects to the language of the counsel asking the questions, and to the question as a repetition of matter already gone over.

A:-Yes sir.

616 Q:-You were a member of the Woman's relief society in Nauvoo in '42 were you not? A:-I was not.

619 Q:-Were not any of the wives of Joseph Smith members of that society? A:-I presume they were but that was nothing to do with this question that I can see.

620 Q:-Please answer my question, Mrs. Kimball,-you are a woman and I have to treat you as I wish to do, with respect. This is a case where I think I am competent to judge of what is competent here and just what is necessary for me to ask you, and I assure you I do not asking you questions out of mere idle curiosity. If you want to be treated respectfully answer the question I ask you, otherwise I will feel called upon to take steps to enforce my rights, and teach you what they are. You read the church papers at that time, did you not? A:-What time?

621 In 1842 you read the church papers, did you not,-the Times and Seasons? A:-Well I used to read them occasionally.

622 Q:-You have all of them now haven't you,-a complete set of the Times and Seasons?

Counsel for the defendants objects to the question asked the witness on the ground that it is not cross examination, and is irrelevant and immaterial.

A:-(no answer to question.)

623 Q:-Do you recollect anything about the secret wife system of John C. Bennett in Nauvoo,-do you Mrs Kimball?

Counsel for the defendants renew their objection to the foregoing question on the grounds above stated.

624 Q:-What is your answer? A:-I know nothing at all about it.

625 Q:-Do you recollect hearing anything about it while

you were living there in Nauvoo? A:-Yes sir.
626 Q:-Then you did hear some thing about it? A:-Yes sir, I heard of his scandalous behaviour.
627 Q:-You say "his scandalous behaviour"? A:-Yes sir, for it was scandalous from what I heard of it.

628 Q:-You were being taught the principles of polygamy at the same time were you not? A:-It was not that I think. I don't think the principle of plural marriage had any thing to do with what he practiced. He was there in Nauvoo I know but I had nothing to do with him or his scandalous doings. I never took the trouble to read about his doings, but I believed he was a wicked man.
629 Q:-You believed he was a wicked man? A:-Yes sir.
630 Q:-For what reason? A:-Because he acted in a very corrupt manner as I understand it.
631 Q:-Was it not Mrs Kimball because he had more women than one,-is that not true Mrs. Kimball? A:-I can't say, for I knew nothing about his affairs at all.
632 Q:-But you were being taught at the same time by Joseph Smith, that it was ~~not~~ right? A:-Taught that that was right.
633 Q:-That a man could have more wives than one,-were you not taught at that very time that that was right? A:-I told you when I was taught that.
634 Q:-And you said it was in '42? A:-Yes sir.
635 Q:-Now Mrs Kimball I want to read you something here that is published in the Times and Seasons on that very subject,-that is the doctrine of plural marriage or the rule regulating marriage in the church at that very time, and which is signed by Wilford Woodruff the present president of the church to which you belong, along with nine or ten other men, and by nineteen of the women in the church at that time, which was during the life of Joseph Smith. It is in the issue of the Times and Seasons dated October 1st 1842. You said you read the church papers sometimes so I want to read to you this communication,-"We, the undersigned members of the Church of Jesus Christ of Latter Day Saints and residents of the City of Nauvoo, heads of families, do hereby certify and declare that we know of no other rule or system of marriage than the one published from the book of doctrine and covenants, and we give this certificate to show that Dr. J. C. Bennett's "secret wife system" is a creature of his own make, as we know of no such society in this place nor never did."
Counsel for the defendants objects to the extracts that has been read to the witness by the counsel for the plaintiff on the ground that the book from which it has been read has not been identified properly, and for the further reason that there is no evidence to show that the certificate read was ever issued by authority of the church.
636 Q:-Let the record show that this is the same book and paper which was identified by Wilford Woodruff while on the witness stand, and by Emily Young, previously. Now that certificate is signed be S. Bennett, George Miller, Alpheus Cutler, Reynolds Cahoon, Wilson Law, W. Woodruff, J.K. Whitney, Albert Pettey, Elias Higbee, John Taylor, E. Robinson and Aaron Jackson" Now let us take S. Bennett,-did you know him? A:-No sir.
637 Q:-George Miller,-did you know him in Nauvoo? A:-No sir.
638 Q:-Alpheus Cutler,-did you know him in Nauvoo? A:-I know him in after years, but I did not know him in Nauvoo.
639 Q:-Did you not know that George Miller was one of the bishops there then? A:-I can't say. He might have been. I don't know that he was or was not.

640 Q:-Did you know Reynolds Cahoon and Wilson Law?
I know them after I left Nauvoo. I knew Reynolds Cahoon after I left there,but I knew Wilson Law there.
641 Q:-You know Wilson Law in Nauvoo? A:-Yes sir.
642 Q:- Of course you knew Wilford Woodruff there?
A:-Yes sir.
643 Q:-And Albert Pottey? A:-Yes sir.
644 Q:-Did you know Elias Higbee there,-he was the party they called "Judge" Higbee there at that time?
A:-Yes sir. I did now know him personally there,but I heard of him.
645 Q:-Did you know John Taylor there in Nauvoo? A:-Yes sir.
646 Q:-And Ebenezer Robinson? A:-I did.
647 Q:-And Aaron Johnson? A:-Yes sir.
648 Q:-Are all of those names appear to this certificate I have read to you? A:-Yes sir. If you say they do I do not doubt it.
649 Q:-You have heard the certificate I read to you?
A:-Yes sir.
650 Q:-Did you ever see or read that certificate before?
A:-Yes sir,I have heard of it,-since that time I ha have heard of it.
651 Q:-You heard of it at the time did you not? A:-No sir but I have heard of it here.
652 Q:-You never heard of it until this trial began,-is that it? A:-Well,I don't recollect for sure whether I did or not.
653 Q:-Who told you of its existence since this trial began? A:-I heard of it from some of the folks here I heard since you came to Salt Lake that you ~~heard it~~ had it.
654 Q:-Did Mr.Hall or President Woodruff tell you?
A:-No sir.
655 Q:-Neither of them? A:-No sir.
656 Q:-Did Joseph F. Smith tell you? A:-No sir.
657 Q:-Well who did tell you? A:-I really don't know,but there has been a number of people who have spoken-to me about it.
658 Q:-Well now I want to read you another certificate signed by nineteen ladies,the names of most of whom you will recognize when I read them off to you.
Counsel for the defendants objects to the reading of the certificate to the witness,which counsel for the plaintiff proposed to read,on the grounds set forth in the objection to the former certificate read.
~~659 Q:~~
659 Q:-I want the same statement to appear as having been made by myself as was made after the last objection in reference to the book that contains it,and the certificate itself,as was made by President Woodruff and Emily D.P.Partridge.
Counsel for the defendants moves the court to strike out the statement of counsel for the plaintiff on the ground that there is nothing in the record to show that it is correct."
660 Q:-It is as follows,-"We,the undersigned members of the ladies relief society,and married females,do certify and declare that we know of no system of marriage being practiced in the Church of Jesus Christ of Latter Day Saints,save the one contained in the book of doctrine and covenants,and we give this certificat to the public to show that J.C.Bennett's "secret wife system" is a disclosure of his own make.
For that is signed by the following ladies,-"Emma Smith,President,Elizebeth Ann Whitney,Counselor,Sarah M.Cleveland,Counselor,Eliza R.Snow,Secretary,Mary C. Miller,Lois Cutler,Polly M.Johnson,Abigail Works, Catharine Pottey,Sarah Higbee,Thirza Cahoon,Ann Hunter,Jane Law,Sophia R. Marks,Phebe Woodruff,Lenora Taylor,Sarah Hillman,Rosanna Marks and Angeline Robinson." Now that is signed first by Emma Smith,-she was the wife of the prophet,was she not?

A:-Yes sir.
661 Q:-And she was the president of the society too,wasn't she? A:-Yes sir.
662 Q:-And Elizabeth Ann Whitney was the counselor to the president of the society was not she? A:-I presume so. I am not disputing it.
663 Q:-Well do you know whether she was or not? A:-No sir.
664 Q:-You knew her did you not? A:-Yes sir.
665 Q:-She was the wife of H.K.Whitney,the bishop of the church,was she not? A:-Yes sir.
666 Q:-And Sarah M.Cleveland|she was another counselor to the president was she not? A:-Well I can't say. I don't know that. I never did know about these things. I knew her but I was not very well acquainted with her.
667 Q:-Well Eliza R. Snow,this says was the secretary to the society,-you knew her did you not? A:-Yes sir,I was acquainted with her,but I don't know what office she held in the society.
668 Q:-Did you know Mary C. Miller also? A:-Yes sir.
669 Q:-And Lois Cutler? A:-Yes sir.
670 Q:-You knew her? A:-I knew her by sight but I wasn't personally acquainted with her.
671 Q:-did you know Ann Cutler? A:-Not personally.
672 Q:-What about her? A:-I knew her.
673 Q:-And Sophia R. Marks? A:-No sir,I did not know her. Well I will say I know all of these ladies when I met them,but some of them I was not personally acquainted with.
674 Q:-Well what about Polly W.Johnson? Did you know her? A:-No sir.
675 Q:-You did not know her? A:-No sir,I don't remember her at all.
676 Q:-And Abigail Works? A:-I don't remember her either but I knew the family.
677 Q:-And Catherine Pottey? What about her? A:-Well I knew her too.
678 Q:-And Sarah Higbee? A:-I knew her.
679 Q:-And Phebe Woodruff? A:-Yes sir.
680 Q:-You knew her? A:-Yes sir.
681 Q:-She was the wife of Wilford Woodruff,the present president of your church? A:-Yes sir.
682 Q:-What about Lenore Taylor? A:-I knew her.
683 Q:-She was the wife of President John Taylor,who used to be president of the church? A:-Yes sir.
684 Q:-Did you know Sarah Pillsbury? A:-No sir,I did not know her.
685 Q:-Did you know Rosanna Parks? A:-No sir. Well let me see,-
686 Q:-You knew Parks,the president of the stake there at Nauvoo? A:-Yes sir,I knew the family.
687 Q:-Rosanna was his wife as you understood it? A:-Yes sir,I think that was his wife.
688 Q:-And Angelina Robinson,-did you know her? A:-Yes sir.
689 Q:-She was the wife of Ebenezer Robinson wasn't she? A:-Yes sir.
690 Q:-You knew nearly all of these ladies did you not? A:-Yes sir. I knew most all of them either personally or by sight.
691 Q:-These were all prominent women in the church and its work there at that time,so far as you knew them? A:-Yes sir.
692 Q:-That was in October 1842? A:-Yes sir.
693 Q:-Now was that certificate true in 1842? A:-I know nothing about it now.
694 Q:-Was the fact true as it is stated in the certificate,that there was no other system of marriage practised there at that time,any other than what

is taught in the book of Doctrine and Covenants,-was that statement true or false at that time? A:-I don't know,-

695 Q:-You don't know anything about it? A:-No sir.

696 Q:-Then you don't know whether the practice of polygamy was taught prior to that time or not? A:-I only knew about it in connection with my own affairs, and that was all that I knew about it.

697 Q:-Will you say that the time that Joseph Smith taught you this which you have refused to describe by the way, or tell what it was he taught you,-will you say that he taught you what you call the doctrine of polygamy before that time? A:-Before what time?

698 Q:-Before the time of the publication of these certificates, which was in October 1842? A:-Well I know it was in '42 some time, but I can't say the month it was in.

699 Q:-You don't tell me the truth? A:-No sir.

700 Q:-To refresh your recollection further I will read from the book identified by Wilford Woodruff and Seasons when he was on the witness stand Wednesday?

Counsel for the defendants objects to anything being read from the book which counsel proposes to read from, on the ground that it has not been properly identified.

701 Q:-I will read to you the same matters that I read to Wilford Woodruff on his cross examination,-"The saints of the last days have witnessed the outpourings and inspirations of so many apostates that nothing but truth has any effect on them. In the present instance I offer the blind quotations of Sydney and his clique, from the bible, book of Mormon and Doctrine and Covenants, to skulk off the dreadful splendor of spiritual virtue, which is brought into the account so gracefully as if the law of the land allowed a man a plurality of wives is fiendish, and like the work of Sidney's revelation, just because it wants to be libertine and live. Woe to the man or men who will thus willfully lie to injure an innocent people. The law of the land and the rules of the church do not allow a man to have more than one wife alive at once, but if any man's wife die, he has a right to marry another, and to be sealed to both for eternity, to the living, on the record. There is no law of God or man against it. This is all the spiritual wife system that was ever tolerated in the church, and they hate it." Now that is from the Times and Seasons of the issue dated Nov 15th 1844, and it is found on page seven hundred and fifteen?

Counsel for the defendants objects to the extract from the Times and Seasons, on what purports to be a publication called the "Times and Seasons for the reason that it is incompetent, irrelevant and immaterial to any of the issues in this case, and is not proper cross examination, and on the further ground, objection is made that there is no evidence to show that the publication referred to was a publication published by the church, and if so there is nothing to show that it is authentic or that the church ever endorsed the publication referred to, and there is nothing to show that it had authority to speak for the church.

702 Q:-This is the book that was identified yesterday by President Woodruff. Now I will ask you if you remember seeing that at the time it was published? A:-No sir.

703 Q:-Did you ever hear it read before? A:-Well I have heard of it, but I never read it myself, or never heard it read by our people.

704 Q:-You knew it was published? A:-I did not know it.

705 Q:-Now that refers to the plural marriage system that you say was taught to you by Joseph Smith,-that I have read to you out of this book? A:-No sir.

706 Q:-Do you say that was not? A:-No sir.

707 Q:-Do you say that was not, the doctrine of the church [illegible] that, that is claimed in this article I have read to you out of this book,-that there was no other doctrine taught at that time, on the question of baptism, but what was contained in the book of doctrine and covenants? Do you say that the church [illegible] any other system of doctrine? A:-[illegible] that was taught there in all baptisms, and I [illegible] that it was church.

708 Q:-You [illegible] it was church? A:-[illegible]

709 Q:-Did you ever [illegible] teach the [illegible] of the church, at any time before the death of [illegible]? A:-[illegible]

710 Q:-[illegible] A:-[illegible]

711 Q:-[illegible] A:-[illegible]

712 Q:-[illegible] A:-[illegible] I [illegible]

713 Q:-[illegible]

714 Q:-[illegible] A:-[illegible]

715 Q:-[illegible] A:-[illegible]

716 Q:-[illegible] A:-[illegible]

717 Q:-[illegible] A:-[illegible]

718 Q:-[illegible] A:-[illegible]

719 Q:-[illegible] A:-[illegible]

720 Q:-[illegible] A:-[illegible]

721 Q:-[illegible]

722 Q:-[illegible] A:-[illegible]

723 Q:-[illegible]

724 Q:-[illegible]

725 Q:-[illegible] A:-[illegible]

*718 Q- The question is, did you ever hear it preached privately or publicly to the church,- to the church, mind you, and not to yourself as an individual? A - No sir, not to the church

714 Q — Now tell jurors what it was, of a private nature, you heard Joseph Smith, jun. say, anywhere else before the church, in his life?

that same time you were being taught, and other members of the church were being taught that doctrine in secret, and you made no protest? A:-I said that I did not know anything about that. I know what I was taught by the prophet, but that that is published there I did not know anything about it sir at all.

726 Q:-You don't know anything about that, or did not at that time? A:-No sir, not that I remember of now.

727 Q:-You never made any protests against the system? A:-No sir, I did not, for I knew that what I was taught was correct.

728 Q:-Did you make any protest against this system? A:-No sir, for it was not my place or my business to come out and protest against what did not concern me. It was not my place to do that, and then I knew what I heard was correct and proper, that is what was taught, and beyond that that I had no concern in what other people did. I always said what I heard in that way from the prophet as the most sacred thing on earth to me, and I kept it so as far as lay in my power.

729 Q:-Did you agree with Joseph Smith when he was teaching you that principle, that you would guard it as a secret? A:-I entered into no such an agreement. There was no such an arrangement.

730 Q:-Then why do you say that what he told you was a secret not to be revealed? A:-I did not say that it was not to be revealed.

731 Q:-Then why do you refuse to reveal it? A:-Well it is not my business not my place to go around and tell people what passed between the prophet and myself. He could have revealed it himself, had he lived, in his own good time, and then there could be no dispute about it, but he did not live the opportunity unfortunately.

732 Q:-Well he never got ready in this world to reveal it, and is that the reason that I am trying to get it out of you? A:-Well all your efforts will be in vain, because you can't get it out of me.

733 Q:-Did you not take an oath here this morning, did you not to tell the truth, the whole truth, and nothing but the truth? A:-Yes sir.

734 Q:-Then why don't you answer this question? A:-Well sir, I will tell everything except that which pertains to my private life, and that I will not tell for it concerns no one but myself.

735 Q:-Then you took the oath with an unexpressed mental reservation to tell only what you pleased? A:-Well sir, I don't consider that it is lawful for a woman to publish all her private affairs to the world.

736 Q:-You consider your ladies are privileged in that respect? A:-Yes sir.

737 Q:-Do you consider that the law of plural marriage is a private affair that the ladies are only ~~to~~ interested in? A:-No sir, but I consider it is the word of God to us, and something that is to be kept sacred and faithfully obeyed.

738 Q:-Well do you consider that it is a private affair. A:-Well it is to me so far as it relates to me.

739 Q:-And this is your private affair? A:-Yes sir, for I have nothing to do with others.

740 Q:-Is there a private affair that this chosen out here does not have any thing to do with? A:-Well I should think there is.

Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and not proper cross examination.

741 Q:-Is there a private affair that the church has nothing to do with? A:-I don't know anything about the church for I am speaking for myself.

742 Q:-You do not pretend to speak for the church? A:-No sir, I am just speaking for myself as an individual.

743 Q:-Was this teachin of plural marriage or polygamy to you,a private affair? A:-It was then.

744 Q:-It was taught to you very privately you say? A:-Yes sir.

745 Q:-And there was just yourself and Joseph Smith present when it was taught to you? A:-Yes sir.

746 Q:-And you decline now to tell what it was that Joseph Smith said to you? A:-I do not propose to do so.

747 Q:-Could you do it,if you proposed to do so? A:-I don't think I could tell you just what he said to me in the exact language he used.

748 Q:-Will you say on your oath that you can't tell what he taught you? A:-I will not.

749 Q:-Will you say that I can? A:-No sir,I will not say that I can or that I can not,-I will not say any thing about it.

750 Q:-Well could you tell us if you wanted to?
Counsel for the defendants objects to the question asked the witness on the ground that the question is incompetent,irrelevant and immaterial, and not proper cross examination.
A:-I don't know whether I could or not.

751 Q:-Don't you know that he never taught you anything different nor contrary to the law on marriage as set forth in the book of doctrine and covenants and published at the very time that you say he was teaching you this system of plural marriage? Don't you know that?
Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not cross examination.

752 Q:-What do you say to that? A:-I tell you that he taught me this as a principle and that I believe it and believed it to be a true principle.

753 Q:-Don't you know that he never taught you any thing but what was published in the book of covenants at that time?
Counsel for the defendants objects to the question for the reasons given above.
A:-It was not published at that time.

754 Q:-It was not published at that time? A:-The revelation on plural marriage,and it was not in the book of doctrine and covenants.

755 Q:-Well when was it first published here in Utah?
Counsel for the defendants objects to the question for the reasons above set forth.

756 Q:-When was it published here in Utah A:-I don't know but I could give you the date.

757 Q:-Did he teach you anything contrary to what was published in the book of doctrine and covenants at that time? A:-I do not remember sir.

758 Q:-You don't remember anything about that? A:-No sir.

759 Q:-How many miles is it from here to Logan where you live? A:-Well if you are through I would like to be excused.

760 Q:-I am sorry to inform you that I am not through,but if you had answered all my questions without hesitation I have no doubt but that I would have made been through long ago? How many miles is it from

any thing about it sir. I don't know that they had authority to publish that, or that they did not have any such authority. That is something that I don't know anything about at all.

772 Q:-Well I am not asking you if they had any authority
A:-Well you need not ask me that, for I don't know anything about it at all.

773 Q:-I am asking you Mrs. Kimball,-do you say in the face of the statements made by John Taylor on the fifth and sixth of November 1844, that he said a co-trine was taught to the church,-in the face of his statements that it was not a doctrine was taught to the church, do you say it was taught? A:-
Counsel for the defendants objects to the question upon the ground that it is not for the question and upon the ground that it is incompetent, irrelevant and immaterial, and not cross-examination.

774 Q:-Do you say it, that it is the opinion in the face of the statement that it was not taught? A:-Well, if I might be permitted to say my opinion, I would say I really know about it. I really do say I know that I know about it. I might say I feel it, but I do not know of its having been taught to the church, or not, but I feel it was taught to the church.

775 Q:-Then you don't know that it was taught or not? A:-I do not know that I can answer that question.

776 Q:-Do you not Partridge Young, that you have cohabited with a lady present in your parlour, with or to Joseph Smith,-? A:-She was not there.

777 Q:-Did you not say that she was there? A:-No sir.

778 Q:-Did you not say in the hearing of Mrs. Young, to Mary Smith? A:-Yes sir, for I did not say she was there. I said, to Mary Smith.

779 Q:-Is Mrs. Elizabeth? A:-It was Eliza.

780 Q:-Is she living? A:-Dead.

781 Q:-Was she living in 1844? A:-Several years before.

782 Q:-Was she living then? A:-Yes sir.

783 Q:-Are there any other of the Partridge girls living besides that you speak of,-any of the girls except Emily? Then is the home of the girls that lived with Mary? A:-I don't know.

784 Q:-There is another Partridge girl living, is there not? A:-I don't know of any. I don't know any thing about that, but I don't think there is.

785 Q:-Well there was Emily and Eliza, and there was another one,-what was her name? A:-There was one named Caroline, but I think she died many years ago.

786 Q:-Was she the young sister of the Emily? A:-I never saw, so recollect, with the Emily to my recollection, except Emily and Eliza.

787 Q:-Well Emily told me there was one living in Ogden? A:-Well if there was one there,-I don't know anything about it, or her whereabouts.

788 Q:-Did you say that Emily was not a single lady living in Ogden, that she was married to some person, to Joseph Smith, did you? A:-I did sir.

789 Q:-Have you a certificate of your marriage with Joseph Smith? A:-I think so. I have one.

790 Q:-You have one? A:-I think so, and it don't matter whether I have or not. I positively know I was married.

791 Q:-Will my question be,-have you a certificate?
A:-No sir, I do not believe I have.

the best evidence,and for the further reason that the witness has refused and still refuses to answer questions that are asked her that are competent and material to the issues in this case.

A:-Well I have answered every question that I can conscientiously answer,and I know that I was married to Joseph Smith,and that there was a record of it made.

[illegible] Q:-It was upon some record in the possession of the Church,and by the Secretary or some officer of the Church,is that the best evidence you have,Kimball? A:-Well William Clayton was the Secretary,and he was Brigham's private Secretary,and I saw it,I know.

8[illegible] Q:-[illegible] Object, further and move to strike out the evidence of the witness because the statement she makes is unsupported by [illegible] of a competent witness and is the [illegible] to [illegible] A:-Well I don't know anything about [illegible] belongs? Q:-I [illegible] it for some time. If I did I will not have any objection to telling you about it [illegible] I don't know, [illegible] it some time.

8[illegible] Q:-[illegible] Kimball,in your direct examination [illegible] of only one [illegible] in [illegible] of does this [illegible] that [illegible]? A:-Yes sir.

821 Q:-[illegible] you [illegible] it from? A:-Well I received it as [illegible].

822 Q:-Well was it a direct command of God A:-I received it, [illegible] I may.

823 Q:-Well was it a direct command of God to you? A:-It [illegible].

824 Q:-You stated not [illegible] A:-[illegible] to you? A:-Yes sir.

825 Q:-[illegible] you received [illegible] revelations? A:-Well it [illegible].

826 Q:-[illegible] if you received it? A:-[illegible].

827 Q:-[illegible] prophet? A:-The prophet Joseph Smith. I believe it, [illegible] prophet Joseph Smith, believing [illegible] prophet of God.

827 Q:-You believe it [illegible] prophet? A:-[illegible].

828 Q:-[illegible] A:-[illegible] it.

829 Q:-[illegible] tell us, [illegible] any A:-[illegible] liberty [illegible] through the prophet Joseph, I did [illegible] it [illegible] upon it [illegible] principle. I believe [illegible] I do not.

830 Q:-[illegible] Lord tell you that personally? A:-[illegible].

831 Q:-[illegible] Joseph Smith tell you? A:-Well he told me it was a divine revelation.

832 Q:-[illegible] you that? A:-The prophet did.

833 Q:-Did the Lord himself never told you anything about it,-he never communicated it to you personally as a divine revelation? A:-No sir.

834 Q:-[illegible] of your own knowledge you do not know that it is a divine revelation? A:-I do. I am well satisfied of it as though I had heard the voice proclaiming it.

835 Q:-You are just as well satisfied of the truth of this as you are of anything else, you have testified to here today,and are just as positive about it? A:-Yes sir,and I should never have accepted it if I had not been satisfied that it was right.

836 Q:-Do you recollect when you first saw the published

revolation on polygamy,-do you recollect when you first saw it? A:-The revolation that was published?

837 Q:-Yes madam,-do you recollect when you saw it first, that is,the first time it was published in printed form? A:-I recollect seeing it of course,but I could not give you the date,sir.

838 Q:-Were you editor of the "Woman's Exponent" published here in Utah? A:-No sir.

839 Q:-Were you ever connected with the editorial department of that publication? A:-No sir.

840 Q:-You recollect that there was such a publication published here in Utah? A:-Yes sir,but I was not connected with it at all. It was published here.

841 Q:-Who is the editor of it? A:-Mrs Wells.

Complainant's counsel objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not cross-examination,and objects to the answer of the witness and move to strike it out for the same reason.

842 Q:-You wrote for it,did you not? A:-Yes sir.

843 Q:-You wrote an article for publication,did you not,[illegible]? A:-Yes sir. I [illegible] [illegible] of my [illegible]?

844 Q:-Your [illegible]? A:-[illegible] sir,I [illegible].

845 Q:-Your biography? A:-Yes sir.

846 Q:-Your [illegible]? A:-No sir,I [illegible].

847 Q:-Or [illegible] you [illegible] about polygamy?

Complainant's counsel objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not cross-examination.

A:-No sir.

848 Q:-Are you one of the editors? A:-No sir.

849 Q:-[illegible] A:-[illegible] published anything [illegible] the facts. I don't know what she published about me,but I do know that I never [illegible] publish anything about me.

850 Q:-Well did you not write your biography for publication? A:-I did not. I gave her some of the facts. I gave it to the editor of the Woman's Journal,and I went [illegible] it [illegible].

851 Well what did you give them? A:-Just a few plain facts.

853 Q:-Is that what you did for the historical record also? A:-I did.

854 Q:-You did not write the article yourself? A:-I wrote the article for the Woman's Journal myself.

855 Q:-But you did not write the one for the historical record? A:-Well it amounts to the same thing. It is the same language or the same thing.

856 Q:-But you did not write it? A:-No sir,I just said the statement to him,and he wrote it down as I stated it. He wrote it according to my dictation.

857 Q:-Then that statement, in the historical record is correct? A:-It is sir.

858 Q:-You state in that, that Emma Smith saw you married don't you? A:-Oh no sir.

859 Q:-But don't you state in that that she saw you through the ceremony? A:-No sir,for she knew nothing about it at all. You will get the record and read it,for it states nothing but the plain facts.

860 Q:-Did you not state in that, that Emma Smith saw you married to Joseph Smith,her husband? A:-Well you had better get the record and see what it states. If you get it and read it,you will understand it better,

861 Q:-Will please answer the question? Did you not say in that that Emma Smith saw you roomin, with Joseph Smith? A:-The book itself is the best evidence of what I said.
862 Q:-Did you receive your endowments in Kirtland? A:-Tell that is my business.
863 Q:-That is your business? A:-It is sir.
864 Q:-Will answer the question? A:-That is something I will not tell you, for it is our sacred business,-that is our sacred ordinance and I will not tell you anything about it.
Counsel for the defendants objects to the question asked the witness on the ground that it is immaterial, irrelevant and not upon cross examination and on the ground that it is a matter which the witness has the privilege, or divulge, and the office is privileged.
865 Q:-Will I will not ask you anything about that,-that is, the character of the endowments, but I will ask you if you received your endowments before you left Nauvoo? A:-I don't know I can't tell the time or place.
866 Q:-You can certainly answer that question, for that is my anything? A:-Well I did.
867 Q:-Did you receive your endowments then in Nauvoo? A:-I did.
868 Q:-In what year did you receive them? A:-It was in '46.
869 Q:-You have received them before that? A:-Yes sir.
870 Q:-Did you not receive them before that? A:-I will say they were not administered before that.
Counsel for the defendants objects to the question asked the witness on the ground that it is immaterial, and not cross examination and the court sustains the answer of the witness for the same reason.
871 Q:-Have you been administered before that? A:-They were not administered to me before then. If I came to the different times and times that members of the Church received them, but I did not receive mine until then.
872 Q:-Did you administer them to anybody to any body else? A:-Yes sir.
873 Q:-You did that you did not receive your endowments before '46. Was it because they were not administered until then.
874 A:-Yes sir, they were administered before that time to me, but I did not receive mine until then.
874 Q:-Did they administered to anybody before the temple was completed? A:-Yes sir,-well it was before they were,-before it was completed, and the President Joseph Smith taught that principle.
875 Q:- Or do you know? Did he teach it to you? A:-Tell I was with my wife.
876 Q:-That is the teaching that principle himself before the temple was completed, and before 1848? A:-Yes sir
877 Q:-Did you hear it from Joseph Smith? A:-Yes sir.
878 Q:-That time? A:-I could not tell you. Well, he didn't,
879 Did you take your endowments under him? A:-No sir, I am sorry to say I did not.
880 Q:-Do you know of anybody who did take their endowments under him? A:-Yes sir.
881 Q:-Who were they? A:-President Young, President Kimball, and President Taylor and President Richards.
882 Q:-You say that they did,-now how do you know that,

861 Q:-Well please answer the question? Did you not say in that that Emma Smith saw you roaming with Joseph Smith? A:-The book itself is the best evidence of what I said.
862 Q:-Did you receive your endowments in Kirtland? A:-Well that is my business.
863 Q:-That is your business? A:-It is sir.
864 Q:-Will answer the question? A:-That is something I will not tell you, for it is our sacred business,-it is our sacred ordinances and I will not tell you anything about it.
Counsel for the defendant objects to the question and the objection on the ground that it is incompetent, irrelevant and immaterial, and not proper cross examination and on the ground that it is matter which the witness has the right to refuse to divulge, and the office is privileged.
865 Q:-Will I will not ask you anything about them,-that is, not the character of the endowments, but I will ask you again if you received your endowments before you left Nauvoo? A:-I don't understand the question.
866 Q:-You can certainly answer that question, for that is not any anything? A:-Well I do.
867 Q:-Did you receive your endowments there in Nauvoo? A:-I did.
868 Q:-In what year did you receive them? A:-It was in '46.
869 Q:-You never received them before that? A:-No sir.
870 Q:-Did you not receive them before that? A:-Well I was not administered before that.
Counsel for the defendant objects to the question and the objection on the ground that it is incompetent, irrelevant and immaterial, and not proper cross examination and on the ground that the answer of the witness for the same reason.
871 Q:-They were not administered before that? A:-They were not administered to me before that. If course there are different times and cases that members of the church received them, but I did not receive one until then.
872 Q:-Were they administered to anybody to any body before that? A:-Yes sir.
873 Q:-You said that you did not receive your endowments after '46. Was it because they were not administered until then.
874 A:-No sir, they were administered before that time to some, but I did not receive one until then.
874 Q:-Were they administered to anybody before the temple was completed? A:-Yes sir,-well it was before they were,-before it was completed, and the President Joseph Smith taught that principle.
875 Q:-Now do you know? Did he teach it to you? A:-Well I have it with my ears.
876 Q:-That he was teaching that principle himself before the temple was completed, and before 1845? A:-Yes sir
877 Q:-Did you hear it from Joseph Smith? A:-Yes sir.
878 Q:-What time? A:-I could not tell you. Well, he didn't,
879 Did you take your endowments under him? A:-No sir, I am sorry to say I did not.
880 Q:-Do you know of anybody who did take their endowments under him? A:-Yes sir.
881 Q:-Who were they? A:-President Young, President Kimball, and President Taylor and President Richards.
882 Q:-You say that they did,-now how do you know that

they did? A:-Well I don't know that they did. I understand that they did but I did not see them.

883 Q:-Well how do you know they did. If you did not see them take the endowments how do you know they did? A:-Well I say I don't know that they did. There is many a thing in this life we have to accept as the truth although we never saw it, and that is one of the things that I accept, although I do not absolutely know it of my own knowledge.

884 Q:-Well do you of your own knowledge know of any one who took the endowments at the hands of Joseph Smith or during his lifetime? A:-Well I have no doubt that they did, for I have in my mind the idea of the prophet himself,-that that mind was a correct one.

885 Q:-When you took your endowments in the temple at Nauvoo, did they have anyone at the presentation, Adam and Satan and Jehovah? A:-Well sir, I cannot tell you.

886 Q:-Do you mean to say that you cannot or will not? A:-[illegible], I will not tell you anything about it, [illegible] that are too sacred to be talked [illegible] I don't tell you.

887 Q:-[illegible] Jesus Christ? A:-[illegible] not,-that [illegible] is no secret about [illegible] of their [illegible] it is [illegible] and [illegible] I [illegible]

888 Q:-[illegible] "P" (Wife) and [illegible] [illegible] Q:-[illegible] A:-[illegible] to [illegible] [illegible] [illegible] wife [illegible]

889 Q:-[illegible] A:-I [illegible]

890 Q:-[illegible] A:-I [illegible]

891 Q:-[illegible] ceremony in the endowment that you [illegible] A:-Well sir, [illegible] I will [illegible]

892 Q:-[illegible] in [illegible] A:-Well sir, I [illegible]

893 Q:-[illegible] A:-I [illegible]

894 Q:-[illegible] A:-I [illegible]

894 Q:-[illegible] A:-[illegible]

895 Q:-[illegible] A:-I [illegible] If you choose to [illegible] [illegible] I will [illegible]

896 Q:-[illegible] A:-I [illegible]

897 Q:-[illegible] A:-I [illegible]

898 Q:-Do you recognize any of these as similar to the ones you used there? A:-I will not say.

899 Q:-Will you answer the question? A:-No sir.

900 Q:-Then you decline to answer that question too? A:-Yes sir,I decline to answer any question in regard to it. It is nothing that has anything to do with this case,and it is something that we hold sacred and is not to be talked about.

901 Q:-Then you decline to say whether or not they resemble those here in this book? A:-You can accept those as if you choose,-I have no objection I am sure.

902 Q:-Well as I do not want to take any one's word I will not accept them. A:-Well you will see the day that you will wish you had them. These ordinances are not for individuals or for this church alone,-they are for the whole world and the world will only [illegible] and receive them.

903 Q:-[illegible] of coming up well as for the members of your church? A:-Yes sir if the world will accept them they are free to all and will take hold.

904 Q:-Well if that is the case,-if they are open and free to the world if it will accept them,why not tell us what they are so that I may know whether I want to accept them or not? A:-Because you are not good in the door,-you have no faith and have not obeyed the gospel,and are not entitled to receive them.

905 Q:-Do you know I haven't obeyed the gospel? A:-[illegible] I am very greatly mistaken.

906 Q:-[illegible] if you don't know anything about it,whether I have or not,-you don't know [illegible] it?

By Mr. Call,-"Counsel for the defendants now I move the Court to strike out all the evidence of the witness,- on the ground that it is referring to a particular revelation, on the ground that there has been no proper identification of the Book,and on the ground that the evidence offered is incompetent,irrelevant and immaterial and a flagrant violation of the rules of cross examination."

By Mr. Kelley,-

907 Q:-Well that is all Mrs Birrell,-do I understand that you decline to answer, in taking the endowments in the Temple do they anoint the feet of the initiates with oil, the endowments all over? A:-I decline to answer that question sir,in regard to that matter. I decline positively to answer any question whatever on that point.

908 Were you baptized a second time when you came to Utah? A:-Well I decline to answer that question.

909 Q:-Why do you refuse to answer it? A:-Well that is my reason.

910 Q:-It is? A:-Yes sir.

911 Q:-You were baptized in Nauvoo you said,and now I want to know if you were baptized a second time when you came to Utah? A:-Well I decline to answer it.

By Mr. Call,-

912 Q:-Answer the question if you know,for it won't make any difference at all whether you were or not? A:-Well it was considered necessary to be re-baptized when we came to the mountains,and we came to do so.

By Mr.Kelley,-

913 Q:-You believe it was necessary?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial and not proper cross examination.

A:-Be [illegible] our teacher.

914 Q:-Well the principal officers in the church, did they [illegible] it? Brigham Young and the rest, such as John Taylor and Kimball,-your husband Heber C. Kimball [illegible] or teach it? A:-Yes sir, they believed in the principle of baptism of course.

915 Q:-And taught it did they not? A:-Certainly they did, for they believed, and they generally taught what they believed if it was the doctrine of the church.

916 Q:-[illegible] you [illegible] it was necessary to be [illegible] when you came to Salt Lake City?

Counsel for the defendants objected to the question asked the witness on the ground and for the reason that it is immaterial, irrelevant and immaterial and not proper cross-examination.

917 Q:-[illegible] Kimball? A:-[illegible] ~~[illegible]~~ [illegible] I was [illegible] compulsory about it.

918 Q:-[illegible] Young, and John Taylor [illegible] necessary?

Counsel for the defendants objected to the question asked the witness on the ground and for the reason that it [illegible]

919 Q:-[illegible] told you [illegible] dots [illegible] of obedience [illegible] it.

920 Q:-[illegible] A:-[illegible]

921 Q:-[illegible]

922 Q:-[illegible] asked the witness on the ground and for the reason that it is immaterial, irrelevant and immaterial, and not [illegible] cross-examination, in [illegible] of a [illegible].

923 Q:-[illegible] is it?

924 Q:-[illegible] original church? A:-[illegible] sir.

925 Q:-[illegible] not? A:-[illegible] sir.

926 Q:-[illegible]? A:-[illegible] I did not [illegible] of the principles [illegible] accumulated [illegible] knowing [illegible] true. I know for myself it is true [illegible] document.

927 Q:-[illegible] you not know [illegible] you [illegible] to be [illegible] out [illegible] that [illegible] out [illegible] only [illegible] much, in that you [illegible] leaving the original?

Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that it is incompetent, irrelevant and immaterial, and that it is not proper cross examination and calls for an opinion of the witness:- So sir.

934 Q:-How do you know that? A:-Well sir, we have proof positive that, once was not a branch, but is the original branch. We had proof positive that [illegible] the [illegible].

935 Q:-You know that, they did not all come [illegible] do you? A:- Well I know that all came who desired to come, and [illegible] not [illegible] out to the time that [illegible], [illegible] records.

936 Q:- [illegible] majority of the [illegible] A:-Well I know that [illegible] majority of them [illegible] to, but [illegible] [illegible] the church.

937 Q:- Well I not [illegible] of [illegible] majority [illegible] Counsel [illegible] objects [illegible] incompetent, irrelevant and immaterial, not proper cross examination.

938 Q:- [illegible]

939 Q:- [illegible] A:- [illegible]

940 Q:- [illegible] A:- [illegible]

941 Q:- [illegible]

942 Q:- [illegible] A:- [illegible]

943 Q:- [illegible]

944 Q:- [illegible] A:- [illegible]

945 Q:- [illegible] A:- [illegible]

946 Q:- [illegible] A:- Well I [illegible]

947 Q:- [illegible] A:- [illegible]

948 Q:- [illegible] City for the first time? A:-Yes sir, [illegible] it was publicly announced to the [illegible] I think.

949 Q:-[illegible] you present? A:-Yes, sir.
950 Q:-Then you heard the statement made by Brigham Young
to the effect that he was the only man on earth that
[illegible] anything about that revelation being in exis-
tence?
Counsel for the defendants objects to the question asked
the witness on the ground and for the reason that it is
incompetent, irrelevant and immaterial, and not proper
cross-examination.
A:-[illegible]
951 Q:-[illegible] statements? A:-[illegible]
[illegible]
952 Q:-[illegible] the revelation
[illegible] that
[illegible]
953 Q:-[illegible]?
A:-[illegible]
954 Q:-[illegible]?
A:-[illegible]
955 Q:-[illegible]?
A:-[illegible]
956 Q:-[illegible] Young, [illegible]
[illegible]?
957 Q:-[illegible]?
A:-[illegible] and
[illegible]
958 Q:-[illegible] to all the conver-
[illegible] to all of the [illegible]
[illegible]
959 Q:-[illegible] the Federal [illegible]
[illegible]?
[illegible]
Counsel for the defendants objects to the question asked
the witness on the ground and for the reason that it is
incompetent, irrelevant and immaterial, and not proper
cross-examination.
960 Q:-[illegible]?
A:-[illegible]
961 Q:-[illegible] vote on
that revelation?
A:-I believe they did.
962 Q:-[illegible]?
A:-I believe I did [illegible].
963 Q:-[illegible] revelation?
A:-I believe I
[illegible].
964 Q:-[illegible]?
A:-I certainly did, sir.
965 Q:-[illegible] your
[illegible] in support of that revelation, and voted to make
it a law of the church?
Counsel for the defendants objects to the question asked
the witness on the ground that it is incompetent, irrele-
vant and immaterial, not proper examination for the evi-
dence, - the law of the church being the best evi-
dence.
A:-Well you will have to find the law of the church, -
the records of the church, before you will find out
what is meant by one of the laws.
966 Q:-Did you raised your hand to make that revelation
part of the law of the church?
Counsel for the defendants objects to the question asked
the witness for the reasons above set forth.
A:-You will have to refer to the records to find
that out.
967 Q:-Well did you vote there? A:-I certainly did if
there was a call for the vote.

consent when you were married to him? A:-She accepted the principle and believed it was true.

Qsn Q:-Did she take your name and place it in Heber's when you were married?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper examination.

A:-No sir, but she consented to his taking other wives, and she believed it was right.

Qsn Q:-That is all.

Re-direct examination by Mr. Cabell,-

Qsn Q:-You let the in your own examination-so called-that you had been subpoenaed here by President Woodruff? A:-Yes sir.

Qsn Q:-Did you mean that he written to you to come here, or telegraphed to you to come here or what do you mean? A:-Yes sir, he telegraphed for me to come.

Qsn Q:-Was this the only interview with you?

A:-Yes sir, I said that I was down here in Salt Lake City, and I answered it, of course and came. What is the difference between that and a subpoena?

Qsn Q:-Will you call it, was a subpoena, and a subpoena duces tecum, that is issued out of the court?

A:-Well he telegraphed me yesterday to come here. That I was down in Salt Lake City.

Witness fees $6.50 paid by defendants.

wives than one, and that men were now being married in plural marriage. He told me soon after that his brother William wished to marry me as a wife in plural marriage if I felt willing to consent to it.

Counsel for the plaintiff objects to the answer of the witness on the ground that it is hearsay, and incompetent, and moves the court to exclude it from the record for that reason.

14 Q-State to the reporter whether or not you consented?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent irrelevant and immaterial, and leading.

15 Q-You may answer the question? A-Yes sir.

16 Q-You consented? A-Yes sir I did.

17 Q-State to the reporter whether or not you were ever married to William E. Smith? A-I was married to him.

18 Q-Who performed the ceremony? A-Brigham Young.

19 Q-Can you state who was present at the performance of the ceremony besides Brigham Young? A-Not any body but William Smith and myself.

20 Q-State to the reporter whether or not,-whether or not you ever witnessed any other ceremonies, where any one was married in plural marriage?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons above set forth, incompetent, irrelevant and immaterial.

A-Yes sir.

21 Q-How many did you witness? A-I will name one.

22 Q-What was that? A-I witnessed one other plural marriage to William E. Smith.

23 Q-State to the reporter who that was?

Counsel for the plaintiff objects to the question on the ground and for the reasons above set forth, irrelevant and immaterial, and incompetent.

A-It was Mary Jones,-her name was Mary Jones.

24 Q-Who performed the ceremony? A-It was Brigham Young.

25 Q-He performed both the ceremonies? A-Yes sir.

26 Q-Was any body else present? A-Not any body that I recollect of. Mr. Kelley,-"Mr. Smith objects to all those questions". By Mr. Bell,-

27 Q-Was that last ceremony you have mentioned where you married to Mary Jones performed after or before the ceremony where you were married to him? A-After.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons above set forth.

28 Q-It was after you were married to him? A-Yes sir.

29 Q-Did William E. Smith have a wife living with him at the time you married him as his plural wife?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is not the best evidence, is leading, irrelevant and immaterial, and is incompetent.

A-No sir.

30 Q-Was this after or before the death of Joseph Smith?

Counsel for the plaintiff objects to the question for the reasons above given.

A-It was before the death of Joseph.

31 Q-Did you ever live with William E. Smith as his wife?

Counsel for the plaintiff objects to the question asked the witness

on the grounds and for the reasons above set forth

A-I did.

33 Q-That is all.

Cross examination by P.C.Holley,-

34 Q-You say your name is Mrs. Mary Ann West? A-Yes sir.

35 Q-Where were you born Mrs.West? A-I was born in England.

36 Q-That part of England? A-I was born in Pedbrooshire ,England.

37 Q-When? A-March 6th 1861.

38 Q-When did you become a member of the Church of Jesus Christ of Latter Day Saints? A-In 1881.

39 Q-Where did you join the church? A-In Podbrooshire England.

40 Q-In England? A-Yes sir.

41 Q-You heard the preach polygamy, or was it taught? A-Yes sir.

42 Q-Well he taught polygamy did he or? A-No sir.

43 Q-He did not? A-No sir.

44 Q-Well what did he preach? A-He did not preach polygamy.I never heard polygamy preached in England.

45 Q-You never heard polygamy preached in England? A-No sir.

46 Q-That was in 1881? A-Yes sir.

47 Q-Did you come from Podbrooshire to Brighton to come to England?

A-I did not. I was born in Podbrooshire.

48 Q-Who was one of the believers that left? A-Yes sir.

50 Q-Did he preach polygamy in England? A-No sir.-not that I ever heard of.

51 Q-Who else did you see that preached there? A-Some more.

52 Q-Did they preach polygamy there? A-No sir.I never heard it,-I did not hear of it at all. The last one I heard of was in 1881.

53 Q-You say you did not hear some type of a thing of who preach polygamy in England? A-No sir.

54 Q-Did you ever see you hear there,-that is heard preaching there,preach or teach it? A-No sir. I never heard polygamy mention of there.

55 Q-Was you elder of the church? A-No sir, only an elder in the church of anybody said.

56 Q-Who did you come with to America? A-Came alone over the water.

57 Q-Were you married at the time? A-Was I married?

58 Q-Yes ma'am,-were you married at the time you came to America? A-Yes sir.

59 Q-Where were you married? A-I was married [illegible].

60 Q-To whom were you married? A-To one Sheffield.

61 Q-What was his first name? A-James.

62 Q-You were married to James Sheffield? A-Yes sir. He did not treat me well and I left him through before hand.

63 Q-Before what? A-Before I came to America.

64 Q-Were you divorced from him? A-No sir.

66 Q-Have you ever been divorced from him? A-No sir.

67 Q-Now did you come to leave him in England? A-Because he drank to much,and did not treat me right.

68 Q-Did you leave him before you started for America? A-Oh yes.

69 Q-How long before you started for America did you leave him?
A-I could not say.
70 Q-Well not so long ago it? A-Well it was a few months.
71 Q-Was it six months? A-I don't know what time it was.
72 Q-Where did you go after you left him,and before you started for
America? A-I went to my father and mother.
73 Q-Where was, they living? A-They were living in Iowa.
74 Q-In what city were they? A-Council Bluffs.
75 Q-What was your first name,-your maiden name? A-It was Covington

Q-What was your maiden name,-Mary Ann Covington.
76 Q-What was your age when you first married? A-Twenty Covington.
77 Q-Did your father come to Iowa according when you left? A-No sir.
78 Q-Did he ever come there? A-Yes sir.
79 Q-Where? A-He came to Council Bluffs.
80 Q-Was your family,-or your father's, ever really come to America
when you came? A-I did not know anything(or heard)
81 Q-You always looked on him as the man who was your father?
A-Yes sir.
82 Q-Where is Mary Ann living at Corinne?
83 Q-Was she married to Joseph Stratton in the church?
84 Q-Is she living in the church now? A-I don't know.
85 Q-Is he living in the church? A-No sir.
86 Q-Is he living in Utah? A-No sir.
87 Q-Where was he living? Was he living in Corinne or in America
A-Corinne sir.
88 Q-Did you live with him there? A-Yes sir.
89 Q-Is he living in the church now? A-I don't know what he
is. I don't know if he is living. I is quite old now.
90 Q-Is he very old now? A-Yes sir,-quite old and feeble now,and
was a great and good church man.
91 Q-Did he have been an elder in the church has he? A-Yes sir'

92 Q-Did you ever see a elder in the Aaronic Priesthood? A-Oh no,sir I do.
93 Q-Did you ever see any of the high priests? A-I think he was one
of the seventy.
94 Q-Was he one of the Patriarchs? A-I think so.
95 Q-Did he ever receive the Melchisedec Priesthood,-what is the
Holy?
96 Q-Was you married more than once. A-Yes sir,he was married
twice. A-Was he?
97 Q-Was the second wife living when you married? A-Yes sir
married two at once? A-Yes sir,he was married twice.
98 Q-Did he live two wives living at once? A-Yes sir.
99 Q-When did you marry a second wife in place of Mary? A-It was in 1851.
100 Q-Did you live in Salt Lake City, when you were married here? A-In
Salt Lake?
101 Q-You married? A-Yes sir.
102 Q-You married him here in Salt Lake? A-Yes sir.
103 Q-Who married you? A-Brigham Young.
104 Q-You were sealed to him for time and eternity? A-Yes sir,it was
for time.
105 Q-You were sealed to him for time,and not for eternity? A-Yes sir.
106 Q-You were sealed to him for time then? A-Yes sir.
107 Q-Who were you sealed to for eternity? A-Joseph Stratton.

108 Q-Who was he? A-The husband that I buried here in Salt Lake City.
109 Q-Did you marry Stratton before you did West? A-Yes sir.
110 Q-And he died before you married West? A-Yes sir.
111 Q-And then you married West? A-Yes sir.
112 Q-Where did you marry Stratton? A-In St Louis.
113 Q-What time? A-It was in St Louis that I married him after we had been driven from Nauvoo.
114 Q-In what year did you marry Stratton? A-In '46,-
115 Q-What time in the year? A-In December '46 I married James Stratton.
116 Q-In December 1846 you married Stratton in St Louis? A-Yes sir.
117 Q-What time did you get here in Salt Lake? A-We left St Louis in February I believe and got here in September.
118 Q-You left St Louis in February 1847? A-Yes sir.
119 Q-And arrived here in September 1847? A-Yes sir,I believe that is the time I got here.
120 Q-Did you not marry Stratton now in 1845 instead of '46? A-No sir It was in 1846 in December that we were married.
121 Q-How many children had you by Stratton? A-I had no children. I never had no children.
122 Q-You have no children at all by anybody? A-No sir.
123 Q-And Stratton died here in Salt Lake before you married West? A-Yes sir,he died in the year '50,and was buried here in Salt Lake.
124 Q-And in '51 you married West? A-Yes sir.
125 Q-Tell who else did you marry? A-I haven't been married since.
126 Q-Is West still living? A-No sir.
127 Q- How did he die? A-He died twenty two years ago last January.
128 Q-And since that time you have not been married? A-No sir.
129 Q-Now who divorced you from William H. Smith? A-He divorced himself from me.
130 Q-How did he do that? A-I considered he did when he went away and.
131 Q-How long had he been gone when you married Stratton? A-I don't remember when he did leave Nauvoo.
132 Q-About when was it? A-I don't remember.
133 Q-You were living with him there in Nauvoo? A-Yes sir I was living in Nauvoo,when we were in Nauvoo,-but he was not there at the time.
134 Q-He was not there,-you refer to William H. Smith? A-Yes sir,the brother of Joseph the prophet.
135 Q-Where was he? A-He went to Philadelphia or some place in the east.
136 Q-Well was he not in Nauvoo in 1845? A-I don't remember.
137 Q-Was he not there in 1844 when his brother was killed? A-Was he here when his brother was killed,-
138 Q- All that is the question I asked you? A-I don't remember whether he was or not.
139 Q-Well you ought to know if your husband was there? A-Well no,I did not know much about him.
140 Q-Did you have a house of your own there in Nauvoo,-you and William H. Smith? A-No sir.
141 Q-Where did you live at that time? A-I lived with his brothers wife,- Agnes Smith.

I42 Q-She was his brothers wife? A-Yes sir.
I43 Q-That was the wife of Don Carlos Smith? A-Yes sir.
I44 Q-You were living with her? A-Yes sir.
I45 Q-In whose house were you married to William H. Smith? In her house.
I46 Q-In Don Carlos wife's house? A-Well it was in her house,-in Agnes Smith's house.
I47 Q-In the house of the widow of Don Carlos Smith? A-Yes sir.
I48 Q-Was Joseph Smith present at the wedding between yourself and William H. Smith? A-No sir,I don't think she was.
I49 Q-Who was present besides you and William B. Smith? A-Brigham Young.
I50 Q-No else? A-I can't say.
I51 Q-Was there any body else present besides yourself ,William B. and Brigham Young? A-I don't remember.
I52 Q-Well that is your best recollection on that point? A-I don't remember that there was any one else at all.
I53 Q-Now was that not after the death of Joseph Smith? A-No sir, Oh no sir.
I54 Q-It was or you never positively before the,-I mean after the death of Joseph Smith? A-No sir,I think it was in the fall [illegible] that I was married to William Smith.
I55 Q-[illegible] was it? A-Well I am sure it was the fall before his death for he did not die until June 1844,-and I am sure we were married in the fall before his death.
I56 Q-[illegible] was the date of your marriage to William H. Smith? A-I don't remember the date now.
I57 Q-Was it the prophet died? A-It was in June 1844 but I don't remember the date.
I58 Q-Don't you remember what time of the year it was when you were married to William Smith, as you say you did? A-I do not positively,but I think it was in the fall.
I59 Q-You don't know the month? A-I do not.
I60 Q-Now is it not a fact that you don't know the year either? A-Well not certainly.
I61 Q-You don't know whether it was in '44 or in '45? A-Well I know it was not in '44. I know that.
I62 Q-Do you know that it was not in '44? A-I know that it was in the fall some time of this year before the prophet and Hyrum were murdered.
I63 Q-That makes you think it was before he was murdered? A-I know [illegible] it. I don't think any thing at all about it,for I know it.
I64 Q-You not mean the funeral of Joseph Smith with William H. Smith? A-I did not say so.
I65 Q-Well I am [illegible] you if you did? A-No sir-
I66 Q-Didn't you go to the funeral of the prophet? A-No sir.
I67 Q-Did William H. Smith? A-I don't know whether he was there or no.
I68 Q-Do you know whether Don Carlos went to the funeral or not? A-No sir I don't think that he did,for he was dead at that time. I think he died in 1841 if I am not mistaken.
I69 Q-How long did William B. Smith live with you? A-A very short time,-not but a short time.
I70 Q-Well I would like for you to tik some time that you lived with him for I don't know what you mean by"a very short time",-two minutes would be a very short time? A-Well I could not say how long it was.

171 Q-Did you live with him two weeks? A-I could not say.
172 Q-Did you live with him one week? A- I can't xxx tell you.
173 Q-You can't say how long you lived with him? A-No sir.
174 Q-Did you ever see him with Mary? A-I did.
175 Q-You knew Mary? A-Yes sir.
176 Q-How many nights did you sleep with him? A-I don't remember.
177 Q-Well was it one or two nights? A-I can't xxxx remember.
178 Q-Was it one night? A-Yes sir.
179 You remember with Mary one night? A-Yes sir.

180 Q-You [illegible] only A-Yes sir.
181 Q-[illegible] A-After we were married.
182 Q-You are positive that it was not before? A-Yes sir.
183 Q-And you swear positively that you roomed with William B.Smith as his wife or married, but you don't say whether I was live wives or not at that? A-Yes sir,I do or I did see him,-and I can't say how many times.
184 Q-Well will you say it was two times? A-I could not say anything about it.
185 Q-Will you say it was one time? A-I will say that I lived with him,and that is all I will say about it.
186 Q-How many nights did you sleep with him? A-I could not tell you.
187 Q-Did you ever sleep with him at all? A-I have.
188 Q-Now was it night,- one or two? A-I don't know.
189 Q-You don't know anything about that? A-No sir, all I lived with him, I know.
190 Q-Well did you live with him one night? A-I did one night sure.
191 Q-You slept with him one night? A-Yes sir.
192 Q-Was that the first or only marriage? A-No sir.
193 Q-Then you lived with him the night you were married to him

A-I did not.
194 Q-Well did you live with him? A-I don't know.
195 Q-Well you have said that you were married to him xxxxxxxxxx before you lived with him? A-I don't know.

196 Q-You were married to him for time and eternity? Is that not so? A-I was married to him.
197 Q-Is it not true that you were just sealed to him for eternity, and that that is the reason why you were married to him,-just

for eternity? A-I was sealed to him for time and eternity

I was sealed to him in Nauvoo also.
198 Q-Well where was that,-was you not just sealed to him for a eternity? A-I was sealed to him for time and eternity

199 Q-Well did you live with him? A-No I did not because he was away

most of the time.
200 Q-How did you come to be sealed to the other fellow for eternity if you were sealed to Smith for eternity? A-Well Smith had gone off and had the chance.
201 Q-Does that make any difference about the eternity part of it? A-It does.
202 Q-It does? A-Yes sir,it does to me.
203 Q-So when you were married to Sheffield you were sealed to Sheffield? A-No sir. I was just married to him.
204 Q-You were not sealed to him? A-No sir.
205 Q-You were sealed to Stratton? A-No sir,I never was sealed to him in his life time. I was married to him in St Louis,but I was not sealed to him in his life time.

206 Q-You were sealed to him in St Louis for eternity? A-No sir, I was married to him there but I was not sealed to him for x eternity there.
207 Q-Have you not said that you were sealed to him for eternity? A-Yes sir and I have been too,but it was since his death that I was sealed to him for eternity.
208 Q-That is to Stratton? A-Yes sir.
209 Q-You were sealed to him for eternity? A-Yes sir.
210 Q-And you were also sealed to William R. Smith for eternity? A-Yes sir.
211 Q-And afterwards you were sealed to Stratton for eternity? A-I was. Now I want you to understand me that I was not sealed to Stratton during his life time,but since his death I have been
212 Q-You were sealed to Stratton since his death for eternity? A-Yes sir.
213 Q-Who was the proxy? A-C.W.West.
214 Q-C.W.West was the proxy? A-Yes sir.
215 Q-That is you were married to West and he agreed to deliver you to Smith in eternity. A-No sir.
216 Q-That was not the way it was? A-No sir, it was not to Smith.
217 Q-Well Brigham Young sealed you to Smith for eternity didn't he? A-He did.
218 Q-And Brigham was a prophet wasn't he? A-He was.
219 Q-And a true prophet? A-I believe him to have been.
220 Q-And you were sealed by the everlasting covenant which cannot be broken, were you not? A-It cannot be broken unless you break it. We are sealed in that covenant that can ot be broken unless we break i .
221 Q-Well it cannot be broken at all,can it? Well the covenant can't be broken.
222 Q-The covenant cannot be broken? A-No sir.
223 Q-Then how do you get out of it,-out of your being sealed for eternity to Smith? A-Well I don't think there will be any trouble about that for I don't think that Smith will ever come where I am to claim me,-I don't think that they will let him in there where I will be.
224 Q-Did not Brigham Young tell you that? A-Tell me that?
225 Q-That Smith would never come where he was,and you would never get where William R. Smith would be in eternity? A-No sir.
226 Q-He did not tell you that? A-Brigham Young never told me anything about it at all. He never said anything of the kind to me.
227 Q-Then he sealed you the second time did he not tell you that? A-No sir.
228 Q-Did he not tell you the other covenant was broken? A-No sir.
229 Q-Well who did? A-No body for I knew it myself.
230 Q-You knew that yourself? A-Yes sir.
231 Q-Did you know it for the reason that it never was made? I know it for the reason that I would not have a man that would act that way.
232 Q-You know it for the reason too,don't you, that the covenant was not made? A-No sir.
233 Q-Then how do you know it? A-I understood it was made.
234 Q-Now you said you knew it because you would not have a man that would act that way? A-Yes sir.
235 Q-How did Smith act?

Didn't he treat you well? A-He treated me very well.

236 Q-He treated you very badly? A-Yes sir.
237 Q-He did? A-Yes sir.
238 Q-Well what was wrong in his treatment of you? A-Well he treated me very well until he left the church.
239 Q-When he left the church you followed him out. A-Yes sir he left the church and I followed.
240 Q-Where did he get? A-He said he was going home,-I don't know where he went, he was going home.
241 Q-Did he say he was going home? A-He said so,-I don't know what for.
242 Q-Don't you know that he went out to prayer on a mission from the church to Utah and stayed there for pretty near a year previously?
Counsel for the defendants objects to the question unless the witness on the ground and for the reason that the witness has stated that she did not know what it was for.
243 Q-That is you say, is that? A-That is I don't know. All I know is that he went West,-I don't know what he went for. It was for.
244 Q-You never saw any bill? A-No sir.
245 Q-Did you never hear about it? A-No more than I heard that he was with the Mormons there ,- he was gone.
246 Q-Did you not hear from him after you left Warren? A-I did after I left Warren.
247 Q-Did you write to Warren after you left? A-Yes sir.
248 Q-You did between then? A-No sir.
249 Q-Did you never get letters from him? A-No sir.
250 Q-Why? A-Never.
251 Q-Then he never wrote to you at all? A-Never.
252 Q-Did you get a marriage certificate? A-I did not.
253 Q-Was there any one else at that period marriage? A-Not that I know of.
254 Q-All this time you were in the care of Smith? A-I did not.
255 Q-Did you ever see you go to? A-I said I never knew that I went to Provo with.
256 Q-You never went by the name of Smith here in Provo? A-I never did.
257 Q-Did you ever introduce or let his wife to be your husband? A-He never did I don't remember that he ever did.
258 Q-You never went out to church with your husband's wife? A-I have gone out with him.
259 Q-Did you go to church with him as his wife? A-No sir,I never went to church with him,but I have gone to church at the same time that he did.
260 Q-Did you not introduce to Joseph Smith by William Smith as his, William's wife? A-I never did.
261 Q-Joseph came to Provo for you to come here? A-Yes sir.
262 Q-Did you not after you were married,William did not introduce you to Joseph as his wife? A-I never was in Joseph's company that I know of with William as his wife.
263 Q-For many times were you ever in Joseph's presence? A-Oh I could not tell you that.
264 Q-For many times did you ever talk to Joseph about polygamy? A-About polygamy?
265 Q-Yes ma'am,-was it just the one time? A-I never talked to him but the once.

266 Q-What did he say? A-He said what I have already told you.
267 Q-Well what was it? A-Well I told you.
268 Q-I beg your pardon you did not tell me you told this gentleman here, and I have the right to have it for myself? What did he tell you? A-I did. Did you do tell me?
269 Q-Yes sir, I do? A-He said to me as I told you before, that God had given him a revelation, that a man was entitled to more than one wife.
270 Q-That is what Joseph Smith told you? A-Yes sir.
271 Q-Is that all that he said? A-Yes sir.
272 Q-Well what else did he say? A-He said that there was power on earth to seal wives for local eternity.
273 Q-He said that it could be sealed on earth,-did he say that the hour should be sealed on earth for power? A-He said that God had given power which rule.
274 Q-He did too? A-Yes sir.
275 Q-Did he say, sealed for eternity, or really? A-He said, for time and eternity, and not until death, as we now generally married, -it was for eternity.
276 Q-It was for eternity? A-Well, he said, sealed while life lasted, and then was for all eternity, of course.
277 Q-Do you know how he said it was for time or eternity? A-I am speaking of what he said.
278 Q-He said either, or both? A-He said sealed for time and eternity.
279 Q-He did not say sealed for all time? A-I don't remember.
280 Q-Do you know or know? A-I don't remember.
281 Q-Did he say it or not? A-He said it was for time.
282 Q-Was it or not? A-As I believe.
283 Q-In April 1843? A-Yes sir, I believe it was.
284 Q-Was it or not? A-Yes sir, I could not tell you.
285 Q-Well was it sealed at the time of the marriage, or the ceremony? A-I was present the first time, and I don't know about that time. I could not say when this was done in my mind.
286 Q-Have you ever seen a child born? A-Yes sir, I have, certainly,-it was in the house, or in the bed, or at the house, or even in the room.
287 Q-You were acquainted with William B. Smith at that time were you? A-I was some more than one of that time.
288 Q-You have never seen a child born? A-Yes sir.
289 Q-Where was it you saw the first child born? A-That was in Nauvoo, at Joseph's house.
290 Q-There was a lot of people lived there. Nauvoo.
291 Q-At Nauvoo? A-Yes sir,-Joseph Smith's house.
292 Q-Did you know Joseph Smith's brother Hyrum? A-Yes sir, he was his brother.
293 Q-Did you know the river at Montrose did you? A-Yes sir, he was their uncle. I lived across the river there.
294 Q-Well they were at Montrose? A-I don't know whether they called it Montrose or not.
295 Q-Well was there some little town there? A-Yes sir, it was a little place where a few people lived.
296 Q-Well did you know where the uncle of William B. Smith lived? A-Yes sir.
297 Q-And that was where you first met William B. Smith? A-Well yes

si., that was where I met William.
298 Q-For the first time? A-Yes sir.
299 Q-You say that is where you met William,-now was it William B. Smith? A-I never heard of him by any other name but William.
300 Q-The man you mean was one of the twelve Apostles? A-Yes sir, and he was a brother of the prophet.
301 Q-A brother of the Joseph Smith the prophet you mean? A-Yes sir.
302 Q-And the first time you met Mr. was across the river at Nauvoo at the home of his uncle Samuel Smith? A-Yes sir. I don't know what the name of the place was but I say one it was Nauvoo, but it was at Mr. Smith's home that I met across the river.
303 Q-Now Mrs. Smith,-how long before you were married to him? A-Oh I don't say,but it was before I met Joseph Smith. You know he and Joseph were so and loved one that William his brother married me for a wife.
304 Q-Well was that in '43? A-Yes sir it was in '43.
305 Q-Was it in '43 that you married William Smith? A-Yes sir, it was in '43 that I married my husband.
306 Q-Now do you know it was in '43? A-Well I know it because I was married in '43. It was in '43,-I think in April '43 that I married.
307 Q-You say that was in April '43, did you know? A-Yes sir, it was in '43-
308 Q-You met him twice before you crossed the river to Nauvoo, was you not? A-Yes sir.
309 Q-You came across the river,you and William, twice before you went across the river to Nauvoo at all. A-Yes sir, I did. I saw him
310 Q-And you were married to him in April of the same year? A-Yes sir.
311 Q-Well where was you married to him? A-I don't know. I don't tell you the state of the case.
312 Q-Well where was it, was you married in Illinois? A-I don't tell you, it was before Joseph died.
313 Q-Well was it in '43 or '44 that you were married to him? A-I believe it was in '43, but I can't say positively for I am not sure of the time.
314 Q-Was it in the winter that you married him? A-Yes sir.
315 Q-Was it in the fall? A-I don't say anything about it.
316 Q-Well was it in the month of July,-? A-I told you I can't remember the time, and I don't say it was about it.
317 Q-You don't know the date, do you? A-No sir.
318 Q-Was you married either in June or July? A-I do not.
319 Q-You know that you never saw William Smith but once before you married him don't you? A-Yes sir I did not see him.
320 Q-Well what do you say about that? A-I say I met him more than once before I married him.
321 Q-Well how many times did you meet him before you married him? A-I don't know. I met him several times from looks of his uncle Samuel Smith the first time I saw him, and I don't know that time that was either month, but I think it was in April 1843.
322 Q-Well that was before you saw Joseph? A-Yes sir.
323 Q-How long after that was it that you saw him before you saw Joseph? A-I saw Joseph the same day that I was there to

that before I went to Nauvoo at all.

[illegible]

[illegible] Q-You saw Joseph [illegible] there? A-Yes sir, I was introduced to Joseph [illegible] same day.

[illegible] Q-How many times did you meet William Smith before you married [illegible] I could not say.

[illegible] Q-Well about how many times do you meet him? A-I can't say.

[illegible] Q-Was it more than once? A-Yes sir.

[illegible] Q-Was it more than twice? A-I could not say. He went right away [illegible], and I think he was [illegible] only about two weeks [illegible].

[illegible] Q-Well did you have any conversations with him when he was in Nauvoo? A-Not privately.

[illegible] Q-What do you mean by that? A-Not privately.

[illegible] Q-Well did you have any conversations with him privately or privately? A-Yes sir I talked with him there in the house [illegible] part of the [illegible].

[illegible] Q-That you never had any private conversation with him? A-No sir I believe not.

[illegible] Q-Did you ever say anything with him? A-No sir.

[illegible] Q-Did you say that that time he was [illegible] only for a couple of weeks? A-Yes sir,-[illegible] like that I think.

[illegible] Q-Well did it was after you had come back that you married him? A-It was after he came back,-when he brought his first wife [illegible], was not [illegible].

[illegible] Q-Who, or what was his first wife's name? A-I do not.

[illegible] Q-Then you married his wife's first wife also? A-Yes sir.

[illegible] Q-And you married his wife before? A-Yes sir,-I married his [illegible] wife was living.

[illegible] Q-[illegible]? A-I did I married [illegible] was living.

[illegible] Q-[illegible] his first wife was living? A-[illegible] sir, I don't think she was [illegible].

[illegible] Q-He [illegible] that he left [illegible] A-No sir, and he took his first wife with him on a second [illegible], and he came back [illegible].

[illegible] Q-Well did he [illegible] his wife back with him? A-Yes sir, he did sir.

[illegible] Q-How [illegible] you [illegible] the time that he was [illegible]? A-Of course I [illegible].

[illegible] Q-[illegible] A-No sir, that [illegible] I said.

[illegible] Q-And is it not a fact that you married for either his first wife [illegible] A-I could not say. I think she was living, but I [illegible] I can't remember positively.

[illegible] Q-Well what is your best recollection as to whether it was before or after his first wife died? A-I cannot tell you that positively.

[illegible]

Q-Well what is your best recollection as to whether it was before or after his first wife died? A-I cannot tell you that positively. I can't say as to that.

347 Q-You have no recollection on that subject? A-I do not know.

348 Q-Had his first wife given her consent to the marriage? A-I don't know as to that, for I was not acquainted with her.

349 Q-You were not acquainted with her there? A-No sir.

350 Q-You never saw her did you? A-No sir.

351 Q-

xxxxxxxx A-Yes sir.

You never met her, did you? A-Yes sir, I met her once.

352 Q-Did she give her consent at the time that you married her, that you should marry her husband? A-I did not know at that time.

that was before anything was said to me about marrying him.

353 Q-How [illegible] was Lucy Jones that married your husband?
A-It was Lucy Jones,-that was her name,-her father and
mother lived there in Newroe.
354 Q-William H. Smith married her? A-Yes sir.
355 Q-How then did William B. Smith marry Lucy Jones? A-I don't know.
356 Q-If you don't know that,how do you know that he married her?
A- All I know that he married her, for I was present.
357 Q-Did he marry her after you married him? A-Yes sir,it was after
he married me that he married her.
358 Q-You were living with him at the time? A-Yes sir.
359 Q-In the house with him? A-No sir.
360 Q-Well where did you live? A-I lived with his sister.
361 Q-He was not living with his sister? A-No sir.
362 Q-Well then also you say you were living with him ,then it appears
you were living with his sister,and he used to [illegible] livi
there? A-Well he was there.
363 Q-He was there? A-Yes sir.
364 Q-He came there at his invitation? A-No Sir.
365 Q-Well then,that makes you say you were living with him? A-Well I
suppose I was living with him but that was living where I was.
366 Q-Well is that what you mean when you say you were living with a
man,that you began to live at the same place of the world that
people live in? A-I mean that I lived at the same place of the
world that ,-I was living with his sister.
367 Q-And he did not live with his sister? A-No sir.
368 Q-So in fact you did not live in the same house with William B.
Smith,you did not live in a house with his wife? A-I never
did.
369 Q-And you never occupied the same room with I live in Smith in
your own home,and alone with him? A-No sir,for I had no
home of my.
370 Q-Did you have a home? A-Yes sir.
371 Q-He had a home there in Arizona? A-Yes sir.

372 Q-Did he ever take you to his home? A-I believe I was
there once.
373 Q-For how long did you stay? A-I could not say.
374 Q-Did you stay all night? A-I believe not.
375 Q-Why not? A-The company I believe.

376 Q-The company,and you called them,-is that it? A-I was there.
377 Q-Well who you call white the company was there,or did,-or were
you there or the company came? A-I don't know whether I
was the first or last there.
378 Q-You can of all the [illegible] you were while the company was there,
or whether you were there before the company came? A-I
A-I know I was there.
379 Q-All you know is that you were there,but you know not you did
not stay all night with him? A-Yes sir.
380 Q-You did not stay all night? A-No sir.
381 Q-Was his wife living then? A-No sir.
382 His wife was living then? A-No sir,she was dead.
383 Q-His first wife was dead? A-Yes sir.
384 Q-How long had she been dead? A-I don't know when she died.

385 Q-You know she was dead however? A-Yes sir.
386 Q-Was Mary Jones living with him at that time? A-No sir, she [illegible].
387 Q-Then he married Mary Jones then? A-No sir, not then.
388 Q-He married her after that? A-Of course he did,-if he was not married to her then he must have married her after that.
389 Q-Did he live [illegible] after that [illegible] before he married Mary? A-I don't know.
390 Q-You said you were present when he married Mary Jones? A-I was.
391 Q-Where did he marry her? A-He married her in [illegible] Smith's [illegible].
392 Q-Well he did not have any wife then, did he? A-Yes sir, he [illegible].
393 Q-I [illegible] you [illegible], when he married Mary Jones? A-I [illegible].
394 Q-[illegible]? A-I think so, but I can't [illegible].
395 Q-[illegible] married? A-I don't [illegible].
396 A-[illegible] Mary? A-[illegible].
397 Q-Well he [illegible]? A-Yes sir.
398 Q-[illegible] Mary Jones? A-I don't know, [illegible] the [illegible].
399 Q-[illegible]? A-Yes sir.
400 Q-If you were his wife, why should you go and keep house for him [illegible] living.
401 Q-If [illegible] his wife, why did you [illegible] for [illegible]? A-Well [illegible].
402 Q-You [illegible]? A-Yes sir.
403 Q-[illegible] or his? A-[illegible].
404 Q-[illegible] not live [illegible] rules of the church as [illegible] to that kind of a marriage? A-No sir, for the [illegible].
405 Q-[illegible] than you [illegible] living? A-Yes sir.
406 Q-[illegible] Have you [illegible]? A-No sir.
407 Q-Well is it not a fact that you were [illegible] to tell any-[illegible]? A-Well [illegible].
408 Q-You [illegible] that you were married [illegible]? A-Yes sir.
409 Q-Well [illegible].
410 Q-[illegible] tell your brother about it? A-Yes sir.
411 Q-When did you tell your brother about it? A-After I was married [illegible].
412 Q-How long after [illegible] that you told your brother? A-I [illegible].
413 Q-Well about how long [illegible] was it? A-I don't know.
414 Q-Was it after you came west? A-No sir.
415 Q-What is that? A-I say it was not after we came West. It was before we came West. It was while we were in Nauvoo.
416 Q-It was in Nauvoo and after Joseph Smith died that you told your

brother of your marriage to William B. Smith? A-No sir it was before Joseph Smith died. It was in Nauvoo shortly after we were married and before the death of Joseph.

416 Q-Was it while William was there in Nauvoo? A-William was east I believe. He never lived in Nauvoo hardly any time for he was away one place and another most of the time.

417 Q-Who was away? A-William Smith,-he was there hardly any time scarcely.

418 Q-William B.Smith was away from Nauvoo a good deal of the time? A-Yes sir,he was there very little.

419 Q-Well you mean that you never lived with him there in Nauvoo? Is that what you mean? A-I mean that he was not there.I mean that he was away from Nauvoo a good deal of the time.

420 Q-Was he not there from the first of January 1844 for some time? A-I do not know about that.

421 Q-As a matter of fact was he not there from the first of January 1844 up to the time that his brother died? A-I don't remember that or he was or not.

422 Q-Well if he had been you would have known it would not you? A-I don't know that I would.

423 Q-You were his wife ,and it would be likely that you would have known it is it not ,-you were his wife,and you would know about home things? A-Well if I knew it I have forgotten and I couldn't tell you.

424 Q-Well did you live with him there in Nauvoo in 1844,-did you live in the same house with him? A-No sir.

425 Q-You did not? A-No sir.

427 Q-You did not live with him then,as his wife? A-No sir.

428 Q-Did Mary Jones live with him? A-No sir. She lived with her mother and father.

429 Q-Who did live with William Smith in Nauvoo in 1844,-that is live in the same with him as his wife? A-I don't know.

430 Q-Did any body? A-I don't remember.

431 Q-You do not remember anything about that,-is that what you desire to be understood as saying? A-Yes sir,-I don't know who lived with him.

432 Q-Who else did William Smith marry besides yourself and Mary Jones A-He married another,-he married a young woman by the name of Priscilla Morrisage.

433 Q-Did he marry her before he married you? A-No sir.

434 Q-He married you first? A-Yes sir.

435 Q-Did you consent to the marriage between him and her? A-No sir.

436 Q-You did not consent to that marriage? A-No sir,I had nothing to do with it.

437 Q-Did Mary Jones,-? A-I was present when Mary Jones was married to him.

438 Q-Well that is not the question,-the question is,-did Mary Jones consent to his marrying Priscillia Morgridge,-that is when William B. Smith married Priscillia Morrisage? A-No sir.

440 Q-You were not ~~xxxxxxxxxx~~ present when they were married? A-No sir.

441 Q-Well,how do you know he married her? A-I heard it,and I guess I did. I guess there is no doubt of that.

442 Q-You just heard it? A-Yes sir.

443 Q-Well do you know that he married her? A-I don't know.

444 Q-You don't know that he married her? A-I did not see them married
[illegible] I did see that he introduced her as his wife.
445 Q-To you? A-[illegible] sir.
446 Q-He introduced her to you as his wife? A-Yes sir, to me and to
others that were in the company.
447 Q-Then was that? A-I don't know.
448 Q-Then you say that it was recently, as you can recollect it? A-I
don't remember that exactly it was or what month it was, but it
was in [illegible], after Joseph died I think.
449 Q-It was after Joseph died that he did that? A-I think it was, but
she will know more about that than I do, for she is right here
in Salt Lake City and she can speak for herself, and she will
know more about it than I do. She can tell about it herself.
450 Q-Was she introduced here to you as his wife? A-No sir it was in
[illegible]. I never saw her here, and I don't think that he was
ever here.
451 Q-Now you say that he introduced her to you as his wife? A-Yes
sir.
452 Q-You were not,-he did not introduce you to her as his wife did he
A-I don't recollect whether he did or no.
453 Q-Well if he did you would recollect it would you not? A-Well I
recollect that he did. Like I said my brother it was under
stood that she was his wife.
454 Q-Who did you understand that from? A-From people that knew them
and knew the circumstances, for it was generally understood
that she was his wife, and then he introduced her as such, and
that was the time that I ever saw her I think.
455 Q-Well did William H. Smith over all, you say? A-Yes sir, he
[illegible] her to the house and I treated her as his wife.
I told [illegible] everybody else that she was his wife,-there
was not in secret room in it at all. Well now I will not say
that I did [illegible] that was the [illegible] I had of
it.
456 Q-Will you tell you swear that William H. Smith ever told you that
Mary Priscillia Morgridge or Jones, was that she was his wife?
A-No sir, I will not swear to anything of the kind,-I said I
that I could not swear to that particular, but I believe that
[illegible]. She is right here in Salt Lake and she can speak
for herself for she knows better than I do whether or not she
was his wife.
457 Q-Well I don't care what she knows about it,-I am asking you now
what you know about it,-that is what I am asking you and when
she comes on the witness stand I will find out, if I can, what
she knows about it? A-Well all I know is she said she was
his wife.
458 Q-And that is all you know about it? A-Yes sir.
459 Q-She said she was his wife? A-Yes sir.
460 Q-Then you did not hear him say that she was his wife? A-I cannot
say that I did. I think I did though, but I would not say
positively.
461 Q-You will not swear positively that it was from him you heard that
A-Hear what?
462 Q-That Priscillia Morgridge was his wife? A-I think it was from
him that I understood it. I think it was from him that I got
that understanding, but I would not swear for certain, but I do
swear for certain that Mary Jones was his wife, for I was
present and saw them married.
463 Q-Do you know how old William Smith was when you married him? A-

Do I know how old he was,-William Smith was?
464 Q-Yes ma'am? A-I do not. I do not know how old he was.
465 Q-Where was it that Mary Jones was married to him? A-In Agnes Smith's house.
466 Q-You are positive of that? A-Yes sir.
467 Q-Where was her husband,-or was she married lady? A-He was dead I understood.
468 Q-She was the widow of Hon Carlos Smith? A-I so understood it.sir
469 Q-That was where Mary Jones was married to him? A-Yes sir.
470 Q-And it was the same place that I believe you stated you were married to him? A-Yes sir.
471 Q-You were both of you his wives after you married him? A-Yes sir
472 Q-And both of you stayed with him at nights of course? A-Of course not.
473 Q-Did either of you stay with him as his wife that night that he married Mary Jones? A-I did not. I don't know whether she did or not.
474 Q-You did not know anything about that either? A-No sir.
475 Q-Well where did he marry Priscilla Mordriquez? Did he marry her at the same place too? A-No sir.
476 Q-Where did he marry her? A-I don't know.
477 Q-Now then he brought Priscilla Mordriquez there,there was yourself and Mary Jones and Priscilla Mordriquez that were all his wives? A-Oh no,-Mary Jones was not yet,for she was not married to him then. It was after that that she married him.
478 Q-But you were his wife when he brought her there? A-Yes sir.
479 Q-Where was Mary Jones? A-With her mother or father I suppose. I think that it is likely that she was there.
480 Q-And you were at Agnes's house? A-No sir.
481 Q-Where were you? A-I was at Agnes's house.
482 Q-And he brought Priscilla there to Agnes's house? A-No sir.
483 Q-Is that not what you have just stated? A-No sir.
484 Q-Then he brought her there, where did he take her? A-He took her there to his own house.
485 Q-And you were there? A-Yes sir.
486 Q-How did you come to be there? A-Well I had gone to be there.
487 Q-And then he introduced Mary Jones to her as his wife? A-Well I don't know that he did. I don't say that he did.
488 Q-Well do you say that he did not? A-I don't that he did.
489 Q-Well did he introduce her to you as his wife? A-I have heard that he introduced her as his wife?
490 Q-Did he ever introduce her to you as his wife? A-I don't remember
491 Q-Well will you swear that he ever did? A-I don't know.
492 Q-Do you know that he did or did not? A-No sir, I don't remember whether he did or did not.
493 Q-Were you his house keeper? A-No sir.
494 Q-Was Priscilla his house keeper? A-No sir.
495 Q-Who was his house keeper? A-I don't know,She was an elderly woman but I don't remember who she was,but I expect I did one time know who she was. I don't remember her name,but she was there the head house for him after his wife died. I think he was living with Mary Smith at the time his wife died,or after she died for a while,but

I am not certain of that.

496 Q-That was after the death of Joseph? A-Well his wife died before Joseph ~~died~~ did.

497 Q-You think so? A-Yes sir.

~~497 Q-Now~~

498 Q-Are you positive of it? A-No sir I would not be positive about it but I think so. I am not certain and I do not want to testify to something that I do not know anything about.

499 Q-Well now Mrs. Wust is it not a fact that you were not married to him until after his first wife died? A-To William Smith?

500 Q-Yes sir,-you were not married to William B. Smith until after his first wife died were you? A-I don't say.

501 Q-Don't you know that you did not marry him until after his first wife was dead? A-I don't know whether she was dead or living I can't say as to that. I know if she was living she was not in Nauvoo at that time.

502 Q-She was not in Nauvoo at the time you married him? A-No sir.

503 Q-And you do not know whether she was dead or living? A-No sir, I could not say positively but I think she was dead or living? A-No sir I could not say positively but I think she was dead.

504 Q-Now at the time you married him he was staying with Emma wasn't he? A-With who.

505 Q-Wasn't he staying with Emma Smith at the time you married him? A-I don't know.

506 Q-Well what is your best recollection about it? A-I say I don't know but I think that he generally stayed there. I think that is where he generally stayed.

507 Q-He did not have any house of his own after his wife died did he? A-Yes sir, he did.

508 Q-Where? A-There in Nauvoo.

509 Q-Did he not keep any house of his own after his wife died, but he stayed there at Emma Smith's and did not keep up his own house after his wife died? A-Yes sir I think he stayed at her place. I don't know that he kept any house there in Nauvoo after his wife died.

510 Q-Well at the times he was in that country after his wife died,and when he was in Nauvoo he stayed there at Emma's didn't he? A-Not always for after a time he had a wife of his own,and then he stayed in his own house,for he married a young girl there in Nauvoo.

511 Q-Who was that? A-I don't know.

512 Q-Don't you know what her name was? A-No sir.

513 Q-That was before he married you wasn't it? A-No sir,the time that he married that girl was after Joseph died,and he married me before Joseph died.

514 Q-Did you consent to that marriage too? A-No sir.

515 Q-Were you present at the marriage? A-No sir.

516 Q-Then how do you know he married her? A-Well I suppose he did for he used to take her around and introduce her as his wife.

517 Q-Well did you hear him introduce ~~her~~ him,-her I mean,-as his wife A-I think I have,-I can't say positively,for it was so long ago,but it is likely I have.

518 Q-Did he introduce her to you as his wife? A-No sir.

519 Q-Well I am asking you for your personal knowledge now,and not what so e body else told you? A-Well I have told you that I did not know. I have told you that I did not know it personally,for ~~s~~ I didn't see them married.

525 Q-You don't know of your own knowledge that he married Priscilla Mary Page,-that is another of the things that you don't know of your own knowledge? A-No sir.

526 Q-You don't even know anything about that of your own knowledge? A-No sir.

527 Q-You did not see this marriage? A-No sir.

528 Q-As a matter of fact you don't know that he married any human one of your own knowledge? A-Yes sir I do,for I know that he married Mary Jones. I saw him marry her.

529 Q-Did you see the ceremony? A-Well I don't say.

530 Q-Do you mean to say that you do not know of your own knowledge that he married any one,-I don't remember.

531 Q-Well that is your idea of the matter,or have you got any idea at all about it? A-I don't think it was.

532 Q-Did you see you don't think it was a ceremony that was made in the book of Doctrine and Covenants? A-No sir,-I don't think

533 Q-Did you see you don't know that it was a ceremony that was made in the book of Doctrine and Covenants? A-No sir, I don't know I have,but still I may have seen it. I don't say that I have not and I know I don't remember it now.

534 Q-Do you know the ceremony that is used here in Salt Lake now in marrying people? A-I do not.

535 Q-Do you know the ceremony that Brigham Young used to use in marrying people? A-Yes sir I remember something about it

536 Q-Well what was it? A-I don't recollect just now,-that is all of it, it was a long time ago that I observed it.

537 Q-Was that written down? A-Yes sir.

538 Q-Is it in the ceremony in the book of Doctrine and Covenants? A-I don't know whether I was in the Doctrine and Covenants.

539 Q-Was your marriage with Mary Page to William Smith, or your first marriage? A-Yes sir.

540 Q-Was it before you married Smith? A-Yes sir.

541 Q-Did you see the ceremony? I ask do you mean that he married you to William Smith? A-I was the same as was used when he married me to Smith.

542 Q-Did you see the ceremony that was used when you married Stratton? A-No sir, I don't remember to see about that.

543 Q-Do you mean to say that the same ceremony was used when you married Smith that was used when you married William P. Smith,are you out of your mind that the ceremony was that was used in marrying Stratton? A-Well I was married to them in the same way, as I was married to Mr. Street or out of the church. I was not married in the church in the same way ,for I was married to Stratton by an elder by the name of Phelps.

544 Q-Did you not say Went by proxy? A-Yes sir,he was a proxy.

545 Q-Was he a proxy for Street? A-That.

546 Q-Was there any proxy in the ceremony? A-Yes sir,-that was if he was to marry me for time and after time I was to be married in eternity.

547 Q-Was up to those? A-To Stratton.

548 Q-Was there any proxy in the ceremony when you were married to Smith? A-No sir.

546 Q-Now you are positive of that? A-Yes sir.
547 Q-Then there was not any,-then the ceremony was not just the same all the time? A-Yes sir.
548 Q-It was not just the same all the time for the reason that you say you were not married to Smith by proxy while you were married to West by proxy,therefore, they could not be the same A-Well I suppose it was not the same in that particular when I married Smith.It might have been the same with that exception but as I said I could not be positive of that.
549 Q-Did you not say they were just the same without any exception? Well I think they were the same only I was married to William for time and eternity, and to West for time only.
550 Q-Did you say a little while ago that you were married to West for time and eternity? A-I didn't did I do.
551 Q-Well did you,-yes or not? A-No sir.
552 Q-You did not say that you were married to West for time and eternity? A-No sir.
553 Q-If the record shows that you did so,then what have you to say? A-Well if it does it is a mistake,-and if I said so I did not mean to do it,for I was married to him for time and for eternity.
554 Q-Well I would like you to go on record positively as saying whether or not the marriage ceremony that was performed when you married West was the same as when you married William? A-Well I say I can't be positive ,-it might have been the same.
555 Q-Well if it did have been the declaration of importance that you went through there,it it wasn't was it? A-No sir. I can't answer that question for I don't remember about that.
556 Q-Why don't you remember about that? A-Well been because so long ago.
557 Q-Was it not a fact that neither your husband nor yourself were present at the ceremony or at that time you married Smith? A-No sir.
558 Q-Did you? A-No sir. If so did I didn't see it.
559 Q-You are certain not that I was willing with you married and to John? A-It was William I did the brother of Joseph.
560 Q-Well was no John the brother of Joseph also? A-Well there might have been but I did not know of any John Smith,the brother of Joseph. I mean by that it was William Smith,and to John or any other Smith,but William.
561 Q-Well now just stop and think a minute? A-I never heard of an John with the brother of Joseph to my knowledge. I know of Smith in your Bible and Hymns, of that is all.
562 Q-And William? A-Yes sir,I married to Lyman William.
563 Q-Well was there no John also? A-No sir,I never heard of a John in that family.There was no John that I ever heard of.
564 Q-Well are you sure as I understand that there wasn't any John ,as you say Mr. Smith,-"The witness has stated that she did not know of any John Smith ,are never heard of one in the family,but she does not say there wasn't any".
565 Q-Did you say there wasn't any John Smith? A-There was John Smith the patriarch,-I knew him.
566 Q-I mean John Smith the brother of Joseph? A-I don't think he ever had a brother named John. If he did I never heard of him.

567 Q-If he had a brother, would John not could have known him? A-I think I could.

568 Q-You say you think you could have known him? A-I think so, unless he had died before I came to Sterling and had a chance to know him.

569 Q-Will you tell us how long after Sister Jane married you could have known William? A-[illegible] I could have known John, Jane's husband, William but it was not John Jane's I married but William. I know he was a [illegible], and I was [illegible].

570 Q-There is some [illegible] A-I [illegible].

571 Q-You married William [illegible] A-Yes sir.

572 Q-There is some [illegible] A-I [illegible] you I [illegible].

573 Q-[illegible] A-I never had [illegible].

574 Q-You never had a marriage [illegible] your marriage with [illegible] A-No sir.

575 Q-Why did you not have one? A-I [illegible].

576 Q-Did you have one with Sister? A-Yes sir, [illegible] I [illegible].

577 Q-Then you have not married, for this [illegible] A-[illegible]

578 Q-I [illegible] A-[illegible] five [illegible] of your [illegible] A-[illegible].

579 Q-Col. [illegible] A-Yes sir.

580 Q-You said that [illegible] of your marriage with Sterling?

581 Q-And you married William [illegible], Sister, Sterling, [illegible] did not have a marriage certificate of your marriage [illegible] them? A-Yes sir.

582 Q-You have [illegible] and [illegible] a marriage certificate of your marriage? A-Yes sir.

583 Q-But in [illegible] A-[illegible] a marriage certificate, I [illegible] I might [illegible].

584 Q-Was there any record made of your marriage with [illegible]? A-I don't know [illegible] or not.

585 Q-There was a clerk there to make the record, [illegible]? A-There was no clerk at all.

586 Q-Was there any record made of your marriage at Sterling? A-I don't know whether he did or not. I don't know about that.

587 Q-Was there any record made of your marriage? A-I don't know whether he did or no.

588 Q-[illegible] A-I say again I don't know whether there was or no. There might have been but I don't know.

589 Q-[illegible] A-I don't know whether there was or not. I don't say it was or not. There might have been.

590 Q-You know there was not? A-I don't know whether there was or not. That is what I will say,-I don't know whether there was or not. For that is all I know about it. He went and got the record of marriages I believe it was, and whether he made a record or not.

[illegible]

[illegible]

[illegible]

610 Q-You were baptized into this new and overlasting covenant that is spoken of in the fourth paragraph of section one hundred and thirty two of Exhibit "A"that I will read you? Is that not the fact Mrs. Hunt,-that you were baptized into the new and everlasting covenant spoken of in that paragraph?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial,and not cross examination.

I understood that I came here to testify to plural marriage in the days of Joseph?

611 Q-Well I do that you are here we think we have the right to ask you these questions,also we would not ask them. I will ask you who it was sent you here to testify in the matter of plural marriage in the days of Joseph?did not Hoocraf send you here? A-No sir.

612 Q-Did did he Hoocraf ask you to come here and testify? A-No sir.

613 Q-He did not? A-No sir.

614 Q-Didn't he write, or to come here? Did he not write to you to come here and give your testimony A-No sir,Hoocraf never wrote to me about it at all.

615 Q-Well did he not send you or telegraph you to come here,or something like that? A-No sir.

616 Q-Well who is it sent for you? Some one must have spoken to you or written you,or asked you in some way to come here,and who was it? A-All I know was brother Shirtley. He came for me and asked me if I knew anything about Joseph practicing plural marriage in previous to his death, and I told him I did know something about it and he asked me if I would not come here,and I did come.

617 Q-Who is Shirtley? A-It is Mr Lorin . Shirtley,president of the Bear Stake.

618 Q-That is one of the stakes here in Utah of which Wilford Woodruff is the President is he not?

Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not cross examination.

619 Q-That do you say is that? A-Yes sir it is.

620 Q-Now I will read this revelation to you and then ask you the question I was going to ask you. I will read paragraphs three and four of section one hundred and thirty two,-"Therefore prepare thy heart to receive the instructions and obey the instructions which I am about to give unto you for all who have this law revealed unto them must obey the same.

For behold,I reveal unto you a new and everlasting covenant; and if ye abide not that covenant,then are ye damned;for no one can reject this covenant,and be permitted to enter into my glory, for in that not the covenant you were baptized into are you going here to Salt Lake?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not cross examination.

A-Well that is the revelation on plural marriage you are reading from there.

621 Q-I know it is,and I asked you if that was not the covenant,-the new and overlasting covenant that you were baptized into when

you came here to Salt Lake? A-No sir. I don't think it was.

629 Q-[illegible] you don't think it was? A-Yes sir.

630 Q-[illegible] covenant [illegible] you were baptized [illegible], if it meant that [illegible] heard of [illegible].

631 Q-[illegible] of that new and everlasting covenant, that covenant [illegible] you were baptized [illegible] after you came to Salt [illegible] the covenants of [illegible].

632 Q-[illegible] A-[illegible] sir.

633 Q-[illegible]? A-To [illegible] our [illegible],-live our religion and [illegible].

634 Q-[illegible] baptized into the new and everlasting covenant that [illegible]
By [illegible],-"What is the use of [illegible]".

635 Q-[illegible] covenant I [illegible]

636 Q-[illegible] baptized into [illegible]

[illegible]

637 Q-[illegible] for your [illegible]

638 Q-[illegible]

639 Q-[illegible] A-[illegible]

640 Q-[illegible] A-[illegible]

[illegible]

Q-[illegible] you were baptized here? A-Yes sir, but I don't [illegible]

Q-[illegible] you were baptized [illegible] everlasting [illegible]? A-No sir, no you [illegible]

Q-Very [illegible]? A-[illegible].

Q-[illegible] were you baptized [illegible]? A-[illegible] because [illegible] after our troubles.

Q-[illegible] tell me if you had broken your covenants? A-No sir, [illegible] baptized [illegible] could [illegible] covenants [illegible], I had never broken [illegible] to begin [illegible].

Q-And [illegible] you were baptized? A-Yes sir.

640 Q-Are [illegible] you were here a while you were baptized the second time were you not,-at the time of what is called the "reformation"?
A-No sir, I was not baptized during the reformation that I remember of.

64I Q-Well were you not baptized the second time after you came here to Salt Lake?

Counsel for the defendants objects to the question asked thewitness

on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not cross examination.

642 Q-[illegible] A-[illegible]?

643 Q-[illegible] in [illegible] were you not [illegible] [illegible] when you came here? A-I was [illegible].

644 Q-[illegible] but [illegible] not [illegible] A-I don't [illegible] positively.

645 Q-[illegible] or [illegible] you not [illegible]?

Counsel for the defendants objects to the question asked the witness [illegible] on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not cross examination.

646 Q-Answer [illegible] A-[illegible] I did not know [illegible] I [illegible]

647 Q-[illegible]? A-[illegible] I [illegible] positively [illegible] I [illegible]

648 Q-[illegible] would obey [illegible] the church, [illegible]

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not cross examination.

649 Q-[illegible] priesthood and [illegible]

650 Q-[illegible] A-[illegible]

651 Q-[illegible]

652 Q-[illegible] A-[illegible]

653 Q-[illegible] your [illegible]

654 Q-[illegible]?

A-[illegible] to the [illegible] I [illegible].

655 Q-[illegible] called on to obey the laws of the church and its officers in all things and did you not take that obligation.

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not cross examination.

656 Q-Were you not called upon, and did you not agree to obey the councils of the church in all things? Did you not agree to do that, without reference to what you were ~~askiea~~ or were not called upon to do in performance of the conditions of that obligation?

Counsel for the defendants objects to the question asked the witness for the reasons and on the grounds above set forth.

A—I don't remember anything of the kind.

957 Q—[illegible] at [illegible] some manner [illegible] the killing of your [illegible] the counsels of the church [illegible]?

[illegible] incompetent [illegible]

[illegible]

[illegible] the [illegible]

[illegible] you [illegible]

[illegible] on the [illegible] to [illegible] to

[illegible] of [illegible]

[illegible] it [illegible] proper [illegible]

[illegible] or [illegible] to do with [illegible]

967 Q—If you were permitted to stay at home instead of coming here [illegible]

A—No sir, I don't think I would.

968 Q—Don't you know that all the spiritual wives over here would have turned their backs on you if you had not come here to testify

A—I would not care if they did.

know about it is what I told you. She told me that she was married to Jerome Smith,and she said it was the wish of her mother ,Mr. Carlos that she should marry him.

[illegible] Q-Do you know [illegible] Mr. Carlos Smith died? A-No sir, [illegible] I think it was in [illegible].

[illegible] Q-[illegible] with Mr Carlos Smith? A- o sir,he died [illegible] before I came here to Denver.

[illegible] Q-[illegible] A-No [illegible] not to my best I may [illegible]. I [illegible] Mr Smith,but I never saw him [illegible] in life.

[illegible] Q-You [illegible] that [illegible] A-No sir [illegible] Jerome [illegible] in 1877,-[illegible] look like [illegible] 1877.

[illegible] Q-Are [illegible] A-No sir.

[illegible] Q-[illegible] A-No sir,-[illegible] Jerome [illegible] Denver ,and [illegible] to see her [illegible] A-Oh [illegible] or twelve years before [illegible] 1871.

[illegible] A-[illegible] sir, [illegible] I [illegible].

[illegible] Q-[illegible] A-[illegible] sir. I [illegible] so.[illegible]

[illegible] A-[illegible] Q-[illegible] A-[illegible] Mr. [illegible]

[illegible] A-[illegible]

[illegible] A-[illegible]

[illegible] A-[illegible]

[illegible] A-[illegible]

[illegible] A-[illegible]

[illegible] A-[illegible] sir [illegible],-I was [illegible] Pickett [illegible] with [illegible] Prison [illegible].

[illegible] Q-[illegible]?

[illegible] A-[illegible] sir, [illegible] Q-[illegible],and did [illegible] her.

[illegible] Q-I [illegible].

[illegible]

[illegible] Q-[illegible] you to come down [illegible],-[illegible] the rest of your [illegible] if you knew any [illegible] at Walsh's during the life time [illegible]?

[illegible]

[illegible] Q-[illegible] to come down here [illegible] I [illegible] care if too [illegible] I don't remember [illegible].

[illegible] Q-[illegible] is your name?

[illegible] "[illegible] Hedrick" is my name.

[illegible] Q-That was [illegible] Hedrick)is the man that came down to see you [illegible] A-Yes sir.

By Mr. Hall,-"I move to exclude that statement of Mr Hedrick's for he is not under oath."

[illegible] Q-Mr Hedrick came up to Ogden to see you did he? A-Yes sir.

[illegible] Q-Tell that was your [illegible] of him I must say? A-Yes sir he came to Ogden,-at least I suppose it was him that was there,-it was a man that looked very much like him if it was not him.

712 Q-That is all.

By Mr Hall,-,-"Please note that this witnesses fees amounting to $5.50

[illegible] paid by the complainants,—that includes mileage and as [illegible] attendance as a witness".

[illegible] Hall,—"We object to all these witness fees being [illegible] or [illegible] as being paid by the defendant [illegible] on the ground that [illegible] that the witnesses [illegible] summoned [illegible]".

[illegible] Hall,—"[illegible] in direct [illegible] overlooked".

[illegible],—"[illegible] of the [illegible] the witness was [illegible], and counsel [illegible],

[illegible]".

[illegible],—"[illegible] for you [illegible]."

[illegible],—"I know that [illegible]. The President of the Church of Christ [illegible], and the man [illegible] or of [illegible]".

[illegible] Hall,—"[illegible]".

[illegible],—

713 Q—[illegible] revelation, or claimed [illegible] plural marriage?

[illegible] question [illegible] witness, [illegible] should be [illegible]".

[illegible],—"[illegible], and [illegible] in [illegible]".

[illegible],—"

714 Q—[illegible], and not [illegible]?

[illegible] Hall,—

715 Q—[illegible] question [illegible] I do.

716 Q—[illegible] that you have seen [illegible] revelation that was given to Joseph Smith, or claimed to have been given by him, [illegible] plural marriage? A—Well [illegible] is this,—Hyrum Smith came into our [illegible],—

717 Q—[illegible]? A—[illegible] came into our [illegible], and [illegible] lived together, and he said that there was a revelation, and I told him that I would very much like to read the revelation that Joseph had received on plural marriage, and he said I will go over there and get the revelation for you. Now I don't know that he told us of it or not, but I think he did,—at any rate I know there was a revelation for Joseph had told me before that ~~the~~ time that there was you know. Well he said he would go over and get it for us to read, and he went over and came back in a little while and he looked very sober, and I asked him, said I, "What is the matter",—what is the matter? Can't you get it", and he said "no, Emma took it out of Joseph's

pocket last night and burned it",and so I did not get to read the revelation although I was very anxious to do so.

Counsel for the plaintiff moves the court to exclude from the record the answer of the witness on the ground that it is incompetent,irrelevant and immeterial,hearsay and not re-direct examination.

By Mr Kelley,-

718 Q-Who was Lyman Smith? A-I don't know.

719 Q-Were you talking about some one that you did not know anything about? A-I did not say anything about Lyman Smith.

720 Q-Who was it that you said you asked to see the revelation? A-Oh,I said Hyrum Smith.

By Mr Hall,-

721 Q-You said something about"Emma". Now what Emma was that? A-That was Emma Smith,the wife of Joseph the prophet. That was Joseph's first wife.

722 Q-That is the one you referred to? A-Yes sir. We always called her"sister Emma". She was the one that Hyrum said had taken this revelation out of Joseph's pocket and had burned it.

723 Q-Who was that"Hyrum"you spoke of? A-He was Hyrum Smith the brother of the prophet,that was martyred at the same time that Joseph the prophet was.

By Mr Kelley,-

724 Q-Hyrum Smith,-that was the brother of the prophet? A-Yes sir.

725 Q-Who was killed at Carthage at the same time that Joseph Smith was? A-Yes sir. They were both murdered in cold blood at the same time,-shot down without mercy.

726 Q-He was one of the first Presidents of the church? A-He was one of the first Presidency,and he was killed at the same time that Joseph was.

727 Q-Now do you say that Hyrum Smith was there talking to you about that plural ~~marriage~~ wife question? A-Yes sir. Well he came into our house and I asked him about it.

728 Q-Whose house did you say that was? A-It was Agnes Smith's house, but I say"our house"because I stopped there.

729 Q-Well you say that he came in there to talk to you about marrying him? A-No sir,I did not say that. I said nothing of the kind

730 Q-Well he came in to talk religion to you? A-No sir he did not.

731 Q-Well what did he come in there for? A-He came in there just as any neighbor would to chat and talk with us and pass the time away,for we were very sociable there at that time,and are yet

732 Q-Yes I would fancy you were from what I have heard,-very much so? He came in there frequently did he not? .A-Quite frequently I remember of his being there several times,-for I remember distinctly of my,-of his being there one time when he told us that Emma had come over to plural marriage. He told us that and said that she had sent for him to come and seal women to Joseph and he had done so.

733 Q-Well I object to that answer of the witness. It is a voluntary statement of the witness,and is not responsive to any question,and is hearsay and incompetent,and for that reason I move to strike it from the record for these reasons.

734 Q-Now when do you say that it was that Hyrum Smith told you that?

A-When he told me what?

735 Q-When do you say it was that Hyrum Smith told you that Emma had come over to plural marriage and had sent for him to seal women to Joseph as plural wives,and he had done so? A-I don't remember the time.

736 Q-That was after the revelation was burned up was it not? A-I don't know when the revelation was burned. I didn't see it burned but Hyrum said that Emma had burned it.

737 Q-Well he told you that Emma had come over to plural marriage,and had allowed or consented to Joseph taking plural wives, after the revelation had been burned? A-When he told me about sealing the women to Joseph?

738 Q-Yes ma'am? A-Yes sir I suppose it was,-it was after he spoke about it I know. Emma thought a good deal of Joseph and she believed about all he said,and he finally won her over to the plural wife doctrine,so Hyrum said.

739 Q-Well Emma did not tell you that hersolf did she? A-No sir.

740 Q-Nor did Joseph Smirh? A-No sir.

741 Q-You said that she thought a good deal of Jpseph,-? A-I meant to say Hyrum,-if I said Joseph it was a mistake for I meant to say Hryrum.

742 Q_Well then you say she thought a good deal of Hyrum? A-Well she always did.

743 Q-You were at Emma's house frequently were you not? A-Yes sir, quite often.

744 Q-You lived with her? A-No sir,I was there quite frequently,but I did not live in the same house with her.

745 Q-Well you lived with her just the same as you lived with William B.Smith did you not? A-No sir.

746 Q-You lived at the same time that she did did you not? A-Yes of course I did.

747 Q-Well that is the way you lived with William is it not,-you lived at the same time that he did,and consequently lived with him? Is that not what you said a while ago? You do not care about answering that question,-well very well let it go. Now you said that Hyrum went over after the revelation for you to read? A-Yes sir.

748 Q-And when he got over there he found out he could not get it,and he came back looking pale,and sick didn't he? A-He looked downcast,-I don't know that he looked pale and sick,but he looked downcast.

749 Q-And he looked troubled? A-He felt sorry that it was burned.

750 Q-And they did not have any copy? A-Yes sir they did.

751 Q-You are sure of that? A-Yes sir.

752 Q-Well did he say so? A-Not then he did not.

753 Q-He said that Emma burned it? A-Yes sir.

754 Q-And he did not know that there was a copy then? A-No sir.

755 Q-And consequently he felt bad? A-He seemed to.

756 Q-Did not his looks show that he felt bad? A-Well his looks showed he felt sorry.

757 Q-How do you know that Hyrum afterwards knew there was a copy? A-I don't know as he did know it,but I did. I did not know my self at that time that there was a copy of the revelation but I learned afterwards that there was.

758 Q-How did you know it? Did you ever see it? A-No sir,I never

saw it that I remember of.
759 Q-How did you know that it was copied,-that there was a copy made of it,if you never saw it? A-Well I know it.
760 Q-I know that is what you say,but I want to know how you know it? A-Well I know it as I know many other things.
761 Q-You know it because somebody told you so? A-Yes sir I was told that William Clayton had the copy. I was told so now mind you but I never saw it,but I don't think ~~that~~ there is any doubt but that there ~~was~~ a copy made of it.
762 Q-You know that just as well as you know about the sealing to Joseph? Somebody told you about it, and that is all you know about it? A-Yes sir. Hyrum told me about that.
763 Q-About what? A-He told me about the sealing of wives to Joseph.
764 Q-Well is that your own personal knowledge or is it hearsay from Hyrum? A-It is from Hyrum.
765 Q-You know then,about the copy of the revelation in the same manner as you know about the sealing,-Hyrum told you about the sealing~~s~~ and Clayton told you about the copy.
A-No sir he did not. I did not say that he told me about the copy.
766 Q-Clayton did not tell you about the copy? A-No sir.
767 Q-Who did? A-I don't remember.
768 Q-But Hyrum did tell you about the sealing? A-Yes sir.
769 Q-You never saw that copy of the revelation in your life,did you? A-No sir. I never did.
770 Q-Well it was Clayton's copy of it that was saved from destruction A-Yes sir I think it was Clayton's.
771 Q-And you swear to that postively? A-I swear postively that I heard that Clayton made the copy and I understood that was the copy that was preserved.
772 Q-Now don't you know that Kingsbury swore on the ~~stand~~ witness stand here that he wrote that copy himself and after he wrote it it was delivered to Hyrum,and he had the copy? A-No sir, I don't know anything about it.
773 Q-Well now did not Hyrum have the copy? A-What copy?
774 Q-The copy of the revelation? A-I don't know anything about it at all.
775 Q-You do not know anything about the copy of your own knowledge? A-No sir.
776 Q-Nor do you know anything of your own knowledge about the original? A-The original what,-is it the revelation you mean?
777 Q-Yes madam? A-No sir,I never saw it in my life,and I don't know anything about it.
778 Q-Well then what makes you say there was a revelation? Is it because somebody told you so? A-Well I heard there was and I believe there was one.
779 Q-You never saw it? A-No sir.
780 Q-And you never read it either? A-No sir.
781 Q-And no body ever read it to you? A-No sir.
782 Q-You never saw the paper it was on? A-No sir. I couldn't see it for it was burned.
783 Q-And nobody ever told you what was in it? A-Well yes,I heard what was in it.
784 Q-Then you don't know of your own knowledge that there was ever such a revelation or a copy of it either do you? A-I believe

there was.

785 Q-But do you know it to be a postive fact of your own knowledge? A-I did not see it.

786 Q-Then you don't know of your own knowledge that there was one,or a copy. A-No sir,of course if it comes to that I don't for I did not see them,but I believe it all the same.

787 Q-You do not know that there was either an original of that alleged revelation or a copy of it ever made,aside from what somebody else told you? A-Aside from what Josepg Smith told me himself about the original I do not.

788 Q-What did he tell you? A-He told me that he had that revelation on plural marriage.

789 Q-Did he ever tell you there was a copy of it made? A-No sir,he did not tell me that.

790 Q-Did he tell you that he had the revelation written out? A-No sir for he did not know that it was written out at that time

791 Q-No I guess not,and nobody else know it either I guess? A-I don't know about that,but I think he did not know there was a copy of it written out. I don't know about that though,for he might have known it.

792 Q-Now what makes you say that Hyrum did not know that there was a copy of it written out.when Clayton and Kingsbury say that there was a copy of it made,and that Hyrum had the copy.made? A-Well I don't know anything about what he knew. I am speaking of the time I talked with him.

793 Q-He did not have it done after it was burned up? A-No sir. I can't say about what he knew then,but I don't think he knew of the copy at that time. He might have known it,but I don't think he did.

794 Q-He could not have a copy of it after it was burned up could he? A-Well I told you,-

795 Q-Well never mind what you told me,but answer my question,-Hyrum couldn't have a copy of it made after it was burned up,could he? A-No sir,but if another person had one unknown to him, he could see that and know what it was,and then he would know there was a copy.

796 Q-Well was there two revelations on that question of plural marriage? A-No sir.

797 Q-Then how could Hyrum have a copy made after it was burned up? A-I don't know.

798 Q-Had it been written out or copied before Hyrum went after it to get it to read to you and Agnes Smith? A-I guess it had.It must have been.

799 Q-Well do you know anything about that? A-No sir.I am only telling what I know about it.

800 Q-Well that is all.

Priscilla M.Staines of lawful age,being produced,sworn and examined on the part of the defendants,testified as follows,-

Direct examination by Mr Hall,-

1 Q-Where do you reside Mrs. Staines? A-In this city.

2 Q-Well what is the name of the city you reside in? A-Salt Lake City.

3 Q-What territory is that in? A-In Utah territory.

4 Q-Where did you reside or live before coming here? A-In St Louis

there was.

785 Q-But do you know it to be a postive fact of your own knowledge? A-I did not see it.

786 Q-Then you don't know of your own knowledge that there was one,or a copy. A-No sir,of course if it comes to that I don't for I did not see them,but I believe it all the same.

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2 Q-Well what is the name of the city you reside in? A-Salt Lake City.

3 Q-What territory is that in? A-In Utah territory.

4 Q-Where did you reside or live before coming here? A-In St Louis

5 Q-What statewas that in? A-In Missouri.
6 Q-Where did you live before you moved to St Louis,Missouri? A-In Nauvoo.
7 Q-What state was Nauvoo in? A-In Illinois.
8 Q-What church,if any,were you a member of while you were at Nauvoo,Illinois? A-The Church of Jesus Christ of Latter Day Saints,
9 Q-State to the reporter what you know,if you know anything,about the doctrine of plural marriage,commonly called "polygamy", being taught or practiced in the church of Jesus Christ of Latter Day Saints at Nauvoo,Illinois,while you were a member of the church there at that place?
Counsel for the plaintiffs objects to the question asked the witness on the ground and for the reason that it is leading,hearsay, incompetent,irrelevant and immaterial,and because there is no issue in this case under which the testimony would be admissable.
10 Q-You may answer the question? A-What is the question?
11 -State to the reporter what you know,if anything,about the doctrine of plural marriage,commonly called "polygamy",being taught or practiced in the Church of Jesus Christ of Latter Day Saints at Nauvoo,Illinois,while you were residing there?
A-Well I was taught that principle by William Smith in 1845.
Counsel for the plaintiff objects to the answer of the witness for the reasons set forth in the objection to the question to which it is an answer and on the additional grounds that all the issues in this case refer to a time prior to the 27th of June 1844,and move the court to exclude the answer from the record for that reason.
12 Q-Who was William Smith? A-He was a brorher of the prophet Joseph Smith. He was the youngest brother.
13 Q-Did you receive the teachings of William Smith on the principle of plural marriage?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial,and is leading.
A-I did sir.
14 Q-Were you ever present when the marriage ceremony was performed according to the principle of plural marriage?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds above set forth.
A-Yes sir.
15 Q-When was that? A-Only when I was married myself.
16 Q-Whom were you married to?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds above set forth.
A-To William Smith.
17 Q-Who performed the ceremony?
Counsel for the plaintiff objects to the question on the grounds above set forth.
A-A gentleman by the name of Lee,-no it was Lane,instead of Lee,-his name was Lane.
18 Q-Can you state any of the circumstances attending William Smith teaching you that principle?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading,incompetent,irrelevant and immaterial.
A-What is that?
19 Q-I asked you if you could state any of the circumstances attending William Smith's teaching you that principle of plural marriage?

5 Q-What statewas that in? A-In Missouri.
6 Q-Where did you live before you moved to St Louis,Missouri? A-In Nauvoo.
7 Q-What state was Nauvoo in? A-In Illinois.
8 Q-What church,if any,were you a member of while you were at Nauvoo,Illinois? A-The Church of Jesus Christ of Latter Day Saints,
9 Q-State to the reporter what you know,if you know anything,about the doctrine of plural marriage,commonly called "polygamy", being taught or practiced in the church of Jesus Christ of Latter Day Saints at Nauvoo,Illinois,while you were a member of the church there at that place?
Counsel for the plaintiffs objects to the question asked the witness on the ground and for the reason that it is leading,hearsay, incompetent,irrelevant and immaterial,and because there is no issue in this case under which the testimony would be admissable.
10 Q-You may answer the question? A-What is the question?
11 Q-State to the reporter what you know,if anything,about the doctrine of plural marriage,commonly called "polygamy",being taught or practiced in the Church of Jesus Christ of Latter Day Saints at Nauvoo,Illinois,while you were residing there? A-Well I was taught that principle by William Smith in 1845.
Counsel for the plaintiff objects to the answer of the witness for the reasons set forth in the objection to the question to which it is an answer and on the additional grounds that all the issues in this case refer to a time prior to the 27th of June 1844,and move the court to exclude the answer from the record for that reason.
12 Q-Who was William Smith? A-He was a brorher of the prophet Joseph Smith. He was the youngest brother.
13 Q-Did you receive the teachings of William Smith on the principle of plural marriage?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial,and is leading.
A-I did sir.
14 Q-Were you ever present when the marriage ceremony was performed according to the principle of plural marriage?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds above set forth.
A-Yes sir.
15 Q-When was that? A-Only when I was married myself.
16 Q-Whom were you married to?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds above set forth.
A-To William Smith.
17 Q-Who performed the ceremony?
Counsel for the plaintiff objects to the question on the grounds above set forth.
A-A gentleman by the name of Lee,-no it was Lane,instead of Lee,-his name was Lane.
18 Q-Can you state any of the circumstances attending William Smith teaching you that principle?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading,incompetent,irrelevant and immaterial.
A-What is that?
19 Q-I asked you if you could state any of the circumstances attending William Smith's teaching you that principle of plural marriage?

A-Teaching me the principle of plural marriage?

20 Q-Yes,and what authority he had for doing so?

Counsel for the plaintiff objects to the question for the reasons heretofore given.

A-He told me that his brother had received a revelation to that effect and he taught it to me,and practiced it.

Counsel for the plaintiff moves the court to exclude the answer of the witness from the record as not responsive to the question asked,incompetent,irrelevant and immaterial,and hearsay,and because it refers to alleged transactions which if true did not occur until a year and a half had elapsed after the death of Joseph Smith on the 27th day of June 1844.

21 Q-Did you ever live with William Smith as his wife? A-I did sir.

Counsel for the plaintiff objects to the question and the answer of the witness on the ground that it is immaterial and incompetent,and leading.

22 Q-What was your name at that time? A-Priscilla Morgridge.

23 Q-Were you ever introduced by William Smith,any where,as his wife?

Counsel for the plaintiff objects to the question for the reasons here-to-fore given.

A-Well sir I don't recollect.

24 Q-That is all I believe. You may cross examine.

Cross-examination by P.P.Kelley,-

25 Q-Now Mrs Staines all of those transactions about which you have testified occured in 1845,and after that time,did they not?

A-No it was in 1845.

26 Q-Well in the year 1845? A-Yes sir.

27 Q-That is all. No I will ask you Mrs Staines who asked you to come up here and testify as a witness? A-Mr Cannon.

28 Q-Angus M.Cannon? A-Yes sir.

29 Q-Is he the President of the Stake here in Salt Lake City? A-Yes sir.

Counsel for the defendants objects to all the questions asked this witness on cross examination on the ground and for the reason that they are incompetent and irrelevant and not proper cross examination,and move the court to exclude the answers for the same reasons.

By Mr Hall,-

30 Q-State to the reporter what request he made to you about coming up here? A-Well that is all the request that he made.I was just requested to come up here to meet Mr Hall I believe it was.I did not consider that I knew much,but I was told that you were the gentleman I had been requested to come up here to meet,who was wanting to see me.

31 Q-Did Mr Cannon tell you that he was requested by Mr Hall to ask you to come up here to see him?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial,and a cross examination of defendants own witness by defendant,and as leading.

A-Yes sir. He said that Mr Hall wished to see me. That was it.

By Mr Cabell,-

32 Q-Mr Cannon told you that he was requested by Mr Hall to see you and tell you to come up here and see Mr Hall? Is that it?

A-Yes sir.

Counsel for the plaintiff objects to the question on the grounds above

set forth.
A-Yes sir.
Witness fees amounting to $1,50 paid by defendants,and asked to be taxed as costs subject to the plaintiffs objection on the ground that it does not appear that the witness has been subpoenaed to attend according to law.
Cyrus H. Wheelocke of lawful age,being produced,sworn and examined on the part of the defendants,testified as follows,-
Direct examination by Mr Hall,-
1 Q-Mr Wheeler you may state your full name to the reporter? A-Cyrus H.Wheelocke.
2 Q-Where do you live Mr Wheeler? A-At Mt Pleasant,San Pete township(county).
3 Q-What state is that in? A-Utah territory.
4 Q-Where did you live before going there? A-Do you mean where did I live in this territory?
5 Q-No,before you came to this territory,where did youlive? A-In Illinois. In Hancock,County,Illinois,at Nauvoo.
6 Q-That was where you lived before you came here? A-Yes sir I lived there when I left the state. Now do you want to know when I left there?
7 Q-Well you may state first when you moved there to Nauvoo to live? A-In 1840. No it was in '41 when I first went there instead of '40. It was '41 when I went there.
8 Q-When did you leave there? A-I left there in 1846.
9 Q-Then from '41 to '46 you lived there at Nauvoo? A-Yes sir.
10 Q-Now what church,if any,were you a member of,when you lived at Nauvoo,Hancock County,Illinois?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons.that it is incompetent, irrelevant and immaterial,and leading.
The Church of Jesus Christ of Latter Day Saints.
11 Q-You were a member of that church? A-Yes sir.
12 Q-I will ask you to state if you were acquainted,at the time you lived at Nauvoo,Illinois,with a news-paper,called the "Nauvoo Expositor"?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial and leading.
A-What is it,-with a paper called what?
13 Q-With a paper called the "Nauvoo Expositor,-the question is were you acquainted with a publication by that name at the time you lived there at Nauvoo? A-I was this much acquainted only,-I saw and handled copies of it.
14 Q-Can you identify that as a copy of the Nauvoo Expositor,the paper per I now hand you,-as the paper you say you saw and handled there?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is immaterial and incompetent.and the witness has not shown himself to be competent to testify.
A-I never have seen any other. That looks like it,but I can't see well enough to read it,but that looks very much like it. If that is the paper there is some affidavits in it,-affidavits of different ones,members of the church that I recollect seeing there,-slurs on the church,and statements of that kind
Counsel for the plaintiff moves the court to exclude the answer of

witness for the reason that it is immaterial and irrelevant and not responsive to the question,and the question is objected to for the same reasons.

15 Q-Can you read the title? A-A-Yes sir,I can see the title of the news-paper.

16 Q-Can you read the date of it here? A-What is that?

17 Q-Can you read the date of it here?

Counsel for the plaintiff objects to the question on the grounds that it is immaterial.

A-Yes sir.

18 Q-Well what is it? A-June 2nd 1844.

19 Q-Where was it published? A-At Nauvoo Illinois.It is very hard for me to see,but I can see that much.

By Mr Caboll,-

20 Q-Have you your glasses? A-No sir.

By Mr Hall,-

21 Q-Well it offered for the purpose of identification,-we offer a copy of the Nauvoo Expositor,published at Nauvoo,Illinois,of ~~Friday~~ June 2nd,but that was an error due to his defective eye sight,-and we offer it for the purpose of showing that Joseph Smith was publicly accused of teaching and practicing the doctrine of plural marriage,or polygamy;and we ask that it be marked as an exhibit.

The publication above referred to as the "Nauvoo Expositor,published as appears by the date,at Nauvoo,Illinois,Friday June 7th 1844"was marked exhibit "D",and made a part hereof,for the purpose of using extracts from same in evidence.

22 Q-Now I will ask you to look at this paper marked exhibit "D",and examine these affidavits,and see if you can identify those affidavits,as the affidavits you read in the paper there at Nauvoo?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial.

A-Yes sir.

23 Q-Read the affidavits? A-Shall I read them?

24 Q-Yes sir?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial, the paper itself being the best evidence,and will show for itself what it is.

25 Q-Just read them? A-"I hereby certify that Hyrum Smith did,(in his office)read to me a certain written document,which he said was a revelation from God,he said that he was with Joseph when it was received. He afterwards gave me the document to read,and I took it to my house and read it,and showed to my wife,and returned it next day.

The revelation (so called)authorized certain men to have more wives than one at a time in this world,and in the world to come. It said this was the law,and commanded Joseph to enter into the law,-and also that he should administer to others. Several other items were in the revelation supporting the above doctrines.

Wm.Law.

State of Illinois)
) I,Robert D. Foster,certify that the above
Hancock County) certificate was sworn to before me,as true in substance this fourth day of May A.D.,1844.

Robert D. Foster J.P.

I certify that I read the revelation ~~xxxx~~ referred to in the above affidavit of my husband,it sustained in strong terms the doctrine of more wives than one at a time,in this world, and in the next,it authorized some to have to the number of ten,and set forth that those women who would now allow their husbands to have more wives than one should be under condemnation before God.

Jane Law.

Sworn and subscribed before me this fourth day of May,A.D. 1844.

Robert D. Foster, J.P.,

Counsel for the plaintiffs objects to the answer of the witness in reading the so called affidavit which he has read,and moves the court to exclude it from the record on the ground that it is incompetent,irrelevant and immaterial.

25 Q-Is that all of it? A-Yes sir, that is all of that,but here is something more,-shall I read it?

26 Q-Yes sir,read it all? A-It is as follows,-

"To all whom it may concern,-

Forasmuch as the public mind ~~has~~ hath been much agitated by a course of proceedings in the Church of Jesus Christ of Latter Day Saints,by a number of persons declaring against certain doctrines and practices therein(among whom I am one),it is ~~xxx~~ meet that I should give my reasons at least in part,as a cause that has led me to declare myself,In the latter part of the summer of 1843, Patriarch Hyrum Smith,did,in the High Council,of which I was a member,introduce,what he said was a revelation given through the prophet.,that the said H.rum Smith did essay to read the said revelation in the said ~~xxxxx~~ Council,that according to his reading there was contained the following doctrines.,- first the sealing up of persons to eternal life against all sins,save that of shedding innocent blood or consenting thereto,- second,-the doctrine of plurality of wives,or marrying virgins.,that David and Solomon had many wives yet in this they sinned not save in the matter of Uriah. This revelation,with other evidences that the aforesaid heresies were taught and practiced in the church;determined me to leave the office of first Counsellor to the President of the church in Nauvoo,inasmuch as I dared not to preach or administer such laws.And further deponent saith not.

Austin Cowles.

State of Illinois)
)ss. To all whom it may concern,I hereby
~~Hancock~~ County)certify that the above certificate was sworn and subscribed before me this fourth day of May 1844.

Robert D. Foster, J.P.,

Counsel for the plaintiff objects to the answer of the witness and the certificate ~~xxx xxxxx~~ which he has read,on the ground that it is incompetent,irrelevant and immaterial.

27 Q-Now I will ask you to state if you read those affidavits or certificates in the Nauvoo Expositor in Nauvoo, Illinois,before the death of Joseph Smith? A-Yes sir.

Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading,incompetent,irrelevant and immaterial and moves the court to strike from the record the answer of the witness for the same reason.

28 Q-You say you read it at Nauvoo, before the death of Joseph Smith? A-Yes sir.

29 Q-In that copy,or one like it of the Nauvoo Expositor? A-Yes sir, I presume so,for I never saw any other copy of the Expositor

but that one that I know of. I remember where I read them too

30 Q-Well where did you read them? A-I read those affidavits in Law's house.

31 Q-Now I will ask you to examine this certificate in the Times&Seasons on page 939,and continuing on to page 940,and see if you can recognize that? A-Do you want me to read it?

32 Q-It is not necessary to read it aloud,-just look over it?
A-Well I am very glad that I don't have to read it aloud.

33 Q-Well do you recognize those certificates? A-Yes sir.

34 Q-I will ask you x to state what difference there was between Dr. John C. Bennett's secret wife system,and the system of doctrine of plural marraige ~~and~~ as taught and practiced by Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and for the reason that the witness has not shown himself to be competent to testify on that subject.

35 Q-I will ask you to state to the reporter, if you have at any time read the revelation on plural marriage,as published by the church in Utah? A-I did not answer the other question.

36 Q-Well answer it? A-You asked me what the difference was between the secret wife system practiced ~~or~~ taught by John C. Bennett and the doctrine of plural marriage as taught by Joseph Smith and I answer that there was not any difference,-they were the same.

Counsel for the plaintiff objects to the answer of the witness on the ground and for the reasons as given in the objection to the question.

37 Q-Now you may answer the question as to whether you have at any ~~tx~~ time read the revelation on plural marriage as published by the Church here in Utah? A-Yes sir.

~~38~~ ~~Q-~~

Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and immaterial,as well as leading.

38 Q-You say you have read it? A-Yes sir,I have read it a great many times.

39 Q-When was the first time you heard that principle taught and ~~xxxx~~ where?

Counsel for the plaintiff objects to the question for the reasons above set forth.

Well sir I cannot tell you as to the dates, I can't recollect dates very well,and so I can't tell you the exact time.

40 Q-Well about what year was it,according to the best of your recollection? A-Well is was in 1843 once,-it was not taught publicly at that time however,and again in 1844.

41 Q-Well you may state who you heard teach it in '43?

Counsel for the plaintiff objects to the question asked the witness for the reason that it is incompetent,irrelevant and immaterial,and is leading.

A-Joseph Smith.

42 Q-At what place? A-The first time I recollect hearing him teach was in Iowa,at a place called Montrose. It was at Montrose in Iowa at the house of one Bates Noble.

43 Q-Now I will ask you to state again(I asked you the question once before,but in a different form),-I will ask you to state the difference between John C. Bennett's secret wife system,and that principle of plural marriage as taught you by Joseph Smith?

Counsel for the plaintiff objects to the question for the reasons above set forth.

A-Now I do not wish to testify to anything here that I am not wanted to testify to,for I have no interest in this case at all only to tell the truth about what I know,If there is any authority here to tell me when I am to answer a question I will do so.

By the Examiner,-

44 Q-You are to answer the questions,as best you can,that are asked you,but when those gentlemen make an objection wait until they are through,and then go on and answer the questions the same as if no objection had been made at all,-you are to pay no attentions at all to objections? A-I will answer the questions if it is proper for me to do so.

By Mr Hall,-

45 Q-Go ahead and answer the questions? They are putting in their legal objections,and they have a right to do that,but it has nothing to do with your testimony,-you will just go ahead and answer the questions the same as if no objection had been made? A-Now I said a while ago that they were the same,but I did not have an opportunity to explain what I meant. There is a considerable difference. In the revelation,if you will read that through you will see that there is nothing but one grant at a time,-it is a sealing power that is called "celestial marriage",or marriage for eternity. That is one part of it. That is held by but one man at a time,-the power to grant that is held by but one man at a time,and no man has a right to marry outside of that,-in that order. There never was any other power,and never will be according to that revelation unless that power is specially delegated to some other person or persons by that man,whereas John C. Bennett got up a company,-a secret combination,the purpose of which was to form a society altogether different to the purpose of that revelation. His system was ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ a scheme some what similiar to a public seraglio. It was got up for the purpose of cultivating the baser passions in human nature and these men were sworn not to reveal their system,and it was given out secretly by Bennett that Joseph Smith had told him he could get up such a society or system,and finally it came to Joseph's ears,and Bennett was excommunicated with all of his adherents in consequence of it. He confessed to my knowledge the guilt of his adultery,so as not to be cut off from the church,but after he was cut off from the church he wrote a book,which I never read,but in that book I understand he stated that he did practice it but did so by authority of Joseph Smith. The fact is he was cut off for his baseness.

Counsel for the plaintiffs objects to the answer of the witness and moves the court to exclude it from the record for the reason that it is irrelevant and immaterial,and hearsay.

46 Q-I will ask you what you understood those parties were denying that gave those certificates which you have read here?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason it is irrelevant and immaterial,and calls for an opinion of the witness morally.

A-Well sir I understand it to be that they condemned utterly John C.Bennett's system,or any other outside of that revelation, and in the covenant entered into by any other authority outside of that revealed in ~~xxxx~~ the law of celestial marriage,-they utterly depudiated ~~ix~~ anything else.

47 Q-What position did you occupy there in the church before the death of Joseph Smith? A-Well sir,in what

A-Well sir,in what regards do you mean?

48 Q-Well in what kind were,-in what kind of work were you engaged, if in any work on behalf of the church?

Counsel for the plaintiff objects to the question ~~of~~ asked the witness on the ground that it is leading,incompetent,irrelevant and immaterial,

A-In the last four months of Joseph's life time,I was detained by him and his brother from a mission that I was appointed to,and there was a conspiracy being organized or hatched at different places,-a conspiracy as we supposed for they detected it from Missouri,leading right into his own house,and they were about to sell him,as he got information of the mob that was being organized to get him. That was the thing,and I was detained to assist them in defeating its operations. Now these men,his counsellors,the affidavit of whom I have read apostatized,and was supposed to be in league with them,and I was asked to remain and trace out as much of the conspiracy as I could.

49 Q-You were detained to do that? A-To watch and find out what I could,and defend him from his enemies there in Nauvoo,and out side. That was my business and I was with him all the time up to within an hour of his murder.

Counsel for the plaintiff objects to the answer of the witness,and moves the court to strike it from the record on the ground that it is incompetent and irrelevant and not responsive to any question asked.

50 Q-I will ask you to state in what other respect you acted as a guard for Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and leading.

A-Well sir there were people there who were accused of being spies,or as acting as spies on Joseph Smith while they visited him. It was said that they were some of his plural wives that he had. His son was accused of being on the watch also, but I don't know that for I never traced him to the house or detected him in anything of the kind,but I was authorized to keep my eye on him,and on these people which I did to the best of my ability.

Counsel for the plaintiff objects to the answer od the witness for reasons given in the objection to the question to which it is an answer,and on the ground that it is hearsay,and moves the court to strike it from the record for these reasons.

51 Q-You guarded Joseph's house in that manner? A-Yes sir.

52 Q-Now did you guard any one else's house?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,

A-Yes sir.

53 Q-State who it was?

Counsel for the plaintiff objects to the question for the reasons above set forth.

A- President John Taylor's.

54 Q-For what purpose? A-And Orson Hyde's.

55 Q-For what purpose did you guard them? A-To see who was there and who went in and who came out when theywere hunting him. I was to watch these men.

Counsel for the plaintiff objects to the answer o f the witness,and moves the court to exclude it from the record for the reasons given in

the objection to the question to which it is an answer.

56 Q-Did John Taylor have any plural wives?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading,incompetent,irrelevant and immaterial.
A-No sir I know nothing of it only what he told me and what I saw,for the fact is I saw no man marry a plural wife. They simply told me the situation of things and wished me to be on guard,
Counsel for the plaintiff objects to the answer of the witness,and moves the court to strike it from the record for the reasons given in the objection to the question to which it is an answer.
A-Well sir what I have told you here is the truth. I have told the truth,and I would have you understand that I am not in the habit of stating falsehoods. I am in the habit of stating truths,and I have lived right here for a great many years,and the people know what my reputation is in that regard.
(The above expression xxx xxxxx of the witness was caused by Mr P.P. Kelley saying "he may have told a falsehood".)
By Mr Kelley,-
57 Q-I did not say you did not tell the truth,-what I said was that John Taylor may have told you a falsehood"? A-Well I misunderstood you,-I am happy to receive your explanation and receive it.
By Mr Hall,-
58 Q-Were you asked to guard his house on account of his having plural wives there?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading,and irrelevant and immaterial.
A-Yes sir.
59 Q-I will ask you to state if you guarded Joseph'x Smith's house on account of his having plural wives there?
Counsel for the plaintiff objects to the question for the reasons above given.
A-No Sir I don't know anything about that.
60 Q-Well was it on account of his having plural wives? A-No sir I never went to a plural wives house in my life,-I did not have anything to do with that. I was just employed to see where he went,-that is to follow him and see xxxx xx xxxx if he was followed or if there were any spies set on him by those whom we ~~xx~~ trusted were his enemies.
Counsel for the plaintiff objects to the answer of the witness as irrelevant and immaterial,and hearsay,and not responsive to the question.
61 Q-I will ask you to examine this paper which I now hand you this book,-which is called the "Times & Seasons"in bound form,and read that here,if you can identify that as a publication that was published there at Nauvoo during the time that you lived there? A-It reads at the head,-Times & Seasons. City of Nauvoo,Illinois. March 18th 1844". Yes sir that is the paper.

62 Q-Can you identify that as a true copy? A-Yes sir.
63 Q-You identify that as a true copy? A-Yes sir.
64 Q-Of the Times and Seasons? A-Yes sir.
65 Q-Published at Nauvoo during the time you lived there? A-Yes sir.
66 Q-I will ask you now to read this letter published on page four-hundred and seventy four? A-Do you want me to read it to myself or read it aloud?

67 Q-Well you had better read it out alone? A-I will do so.
Counsel for the plaintiff objects to the question asked the witness or to his reading from the book referred to,on the ground that it is irrelevent and immaterial,and has nothing whatever to do with the issues of this case.
A-It reads,-"Nauvoo,March 15th 1844,To the brethern of the Church of Jesus Christ of latter day Saints,living on China Creek,in Hancock County,Greeting;-Whereas brother Richard Hewitt has called on me to day,to know my views concerning some doctrines that are preached in your place,and states to me that some of your elders say,that a man having a certain priesthood,may have as many wives as he pleases and that doctrine is taught here;I say unto you that that man teaches false doctrine,for there is no such doctrine taught here;neither is there any such thing practiced here. Any man found teaching privately or publicly any such doctrine is culpable, and will standdisbance to be brought before the high Council, and lose his license and membership also;therefore he had better beware what he is about.
And again I say unto you,an elder has no business to undertake to preach mysteries in any part of the world,for God has commanded us all to preach nothing but the first principles unto the world. Neither has any elder any authority to preach any mysterious thing to any branch of the church,unless he has a direct commandment from God to do so. Let the matter of the great councils of heaven and the making of gods,worlds and devils entirely alone;for you are not called to teach any such doctrine,-for neither you,nor the people are calculated to understand any such principles,-less so to teach them. For when you commence to teach such principles the saints will receive them. Therefore beware what you teach,for the mysteries of God are not given to all men,and unto xxxxxxxx those to whom they are given they are placed under restrictions,to impart only such as God will command them;and the residue is to be kept in a faithful breast,otherwise he will be brought under condemnation. By this God will prove his faithful servants,who will be called and numbered with the chosen.
And as to the celestial glory,all will enter in and possess that xxxxx kingdom that obey the gospel,and continue in faith in the Lord unto the end of his days. Now,therefore,I say unto you,you must cease preaching your miraculous things,and let the mysteries alone until by and bye. Preach faith in the Lord Jesus Christ,repentence and baptism for the remission of xxxxx sins;the laying on of the hands for the gift of the holy Ghost;teaching the necessity of strict obedience unto these principles;reasoning out of the scriptures;proving them into the people. Cease your schisms and divisions,and your contentions. Humble yourselves as in dust and ashes,lest God should make you an xxxxxx ensample of his wrath unto the surrounding world. Amen.
In the bonds of the everlasting covenant I am your obedient servant,

Hyrum Smith".

Counsel for the plaintiff objects to the question asked the witness and the reading of the letter above set forth on the ground that it has already been been set forth in the record,and that the book it is read from is a mutilated copy.
By Mr Hall,-"Will you admit that the copy that is already set forth in the record may be used by the defendants on the xxix trial of the cause?
By Mr Kelley,-"I object to that copy because the book it is read from is mutilated.xxxx.
By Mr Hall,-"Well let it all go in as read by the witness,-

68 Q-Have you read the whole of the letter? A-I have.
69 Q-Did you ever read that letter in Nauvoo? A-Yes sir.
70 Q-You did? A-Yes sir.
71 Q-When did you read that letter in Nauvoo? A-I read it in the paper as it was published.
72 Q-Was it identical as you find it here? A-It was.
73 Q-I will ask you to state the difference between a man having as many wives as he pleased, and the principle of plural marriage as taught by Joseph Smith?
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that the witness is not competent to testify on the question asked him, and because it calls for an opinion of the witness, and is incompetent, irrelevant and immaterial.
A-Well sir I never knew that any man had any right to any more than one wife, or even that in that covenant, unless it was given him of God, that that man could do so spoken of through Joseph Smith. That was the only thing that was taught me, and the only thing I ever heard of. No man had any ~~right~~ authority or right to teach any other system of marriage connected with the system of ~~xxxxxx~~ celestial marriage or plural ~~xxxxxxx~~ or eternal marriage,-nothing only what appears there,-and with reference to the men that were entitled to them,-that is to plural wives there was no priesthood about it.
74 Q-I will ask you if there was any doctrine taught there in Nauvoo that a man could have as many wives as he pleased?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, leading, and calls for hearsay testimony.
75 Q-You may answer the question. Any doctrine to that effect taught by proper authority? A-What do you mean by proper authority?
76 Q-I mean, perhaps I should not have said ~~xxxxxxxxxx~~ that,-,-by any authority I will say,-in reference to whether a man could have as many wives as he pleased?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant, incompetent, and immaterial, and leading.
A-Well there was John C. Bennett's system in the beginning I believe. That was a plural wife system, and they had a certain order and order of priesthood, and they said they could have as many wives as they wanted. They is they said or claimed ~~xx~~ that certain men could have, but there was no authority in the church for that practice or connected with it in any manner. Nothing that was given out to the world or anything pertaining to it.
77 Q-I will ask you to state then if it was the truth,-if the statement made in this letter which you have just read,-to the effect that there was no such a system taught there? A-Yes sir that is the truth for there was nothing of the kind taught there at Nauvoo at that time by authority. It was not endorsed by the church or by any member of the church in good standing. Then explain if you can, the system of plural marriage as taught you by Joseph Smith?
78 Q —
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent, irrelevant and immaterial and hearsay, and assuming a fact that is not in the record.
A-Yes sir it was taught to me by Joseph Smith, I can tell you that for that is something I know of my own knowledge. I did ~~xxx~~ not

see that revelation at that time,but I saw it afterwards after we came here and before it was printed in the book of Doctrine and Covenants..I heard it at that time in Nauvoo,-I mean for the clerk of Joseph Smith by his request read that revelation on the celestial ~~marriage~~ order of marriage in its entirety,and that was the doctrine contained in it. I don't think it needs any explaining for it will explain itself.

79 Q-Well when did you hear that read? That is something that I did not quite understand?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons above set forth,and on the further ground that it is a cross examination by defendant of its own witness.

A-I couldn't give you any date at all~~xx~~. I remember once,-I think it was the first time,and it was at Nooles,and another time there was a few of us in the woods,settin out of the way and we were talking together and I heard about it.

80 Q-You were out in the woods you say? A-Yes sir,and I can make it clear to you in a little while that Joseph had to be on the run to keep out of the way of his enemies,and some times he would go out in the ~~xxxx~~ ~~in x~~ country to ~~xxxxxxxxxx~~ one of our neighbors,for he felt that he could trust any one that lived in the woods or forest down the river,and we would go out in the timber to talk under the trees about the principles of the church,amongst other principles that of baptism for the dead was discussed and the building of the temple and all these things together. It was at this time amongst others that he taught us the principle of plural marriage,but his teaching was not specially directed to me,but to all who were in the company. We talked about it as we might here or any other qualified and having authority to do so will discuss principles when he gets along with his brethern in friendly and confidential discourse.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not the best evidence,and not responsive to the question.

A-Of course sir I have no desire to testify here at all if I am not wanted to do so. If it is unnecessary I do not ~~xxx~~ desire to speak here at all,for it is nothing to me.

81 Q-Have you read the revelation as published in the book of Doctrine and Covenants of the Utah Church?

Counsel for the plaintiff objects to the question on the ground that it is immaterial.

A-Yes sir,I have.

82 Q-I will ask you to state what difference there is,if any,between the revelation as published by the Utah church,and the revela you heard read? A-There is no difference ~~in the reading~~ ~~xxxx~~ whatever in the reading that I can now discover. I do not know of any difference and I will say this that I never heard the thing questioned until now. I don't think I ever heard it questioned until now.

83 Q-I will ask you to state whether you heard that revelation read before the death of Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial and leading.

A-Yes sir.

84 Q-You did hear it before the death of Joseph Smith? A-Yes sir.

95 Q-And you say that the revelation xxxxxxx xx that you heard read before the death of Joseph Smith,and the revelation as such published by the church here in Utah are identically the same? A-I can't recollect of any deviation at all. I can't remember that there was any difference but as to swearing that they are identically the same I could not do it,for that would be impossible,but I can swear that to the best of my recollection they were the same identically. Of course I don't think I had that manuscript in my hand or read it for itself,but I heard it read.-

96 Q-Was the revelation on plural marriage? A-Yes sir.

Counsel for the defendt objects to the question called for the witness as being irrelevant and immaterial,and the answer of the witness as hearsay,and moves the court to exclude it from the record for that reason.

97 Q-Well that is all.

Cross examination by P.P. Kelley,-

97 Q-Did you ever hear the revelation in your house before the death of Joseph Smith? A-No sir.

98 Q-You did not? A-I do not,but I know,-I can write positive I did not.

99 Q-How long after it was it? A-I don't know.

100 Q-How many copies of manuscript was there? A-I don't know.

101 Q-You don't know how many lines or manuscript it was,or how large it was? A-No sir.

102 Q-It was more to you I believe you stated? A-Yes sir.

103 Q-Well how long did it take the party that read it,to read it? A-Well I could not tell you for I did not keep my time on it

104 Q-Did Joseph Smith read it to you? A-No sir.

105 Q-Who was clerk? A-Clerk.

106 Q-Who was clerk? A-Joseph's clerk.

107 Q-Who was clerk then? A-I don't know.

108 Q-Do you know who? A-I can tell you who I think it was and you can find out for yourself who it was,for I am very sure at remembering names.

109 Q-Was James Whitmer the clerk? A-No sir.

110 Q-Was he ever? A-No sir.

111 Q-Do you swear he was not the clerk at that time? A-No sir.

112 Q-You will not swear that he was not the clerk? A-I will swear that I do not think he was.

113 Q-Was he not the clerk of Joseph Smith up to 1844? A-Some times he was,and some times William Clayton was,and some times it was Hyrum Smith.

114 Q-William Clayton was not the clerk up to 1844 at the time of the prophets death was he? A-I think he was part of the time. I think he was occasionally up to that time,and there was a man named Thompson that acted a part of the time as his clerk also. I don't know who it was particularly who it was that read that revelation at that time,but I know that it was not either of them,-it was a man who I was not much acquainted with,-I remember that very well. He was the new clerk that was acting at that time.

115 Q-Who was present when you heard it read? A-Bates Noble.

116 Q-Any one else? A-Captain Daniel Davis was there also.

117 Q-Where was it you heard it read? A-Perhaps a mile or so out of town,-perhaps a mile or so out of the town of Montrose,-west of the town.

118 Q-That was where you heard it read? A-Yes sir,and I heard him xxx teach it in Bates Noble's house also.

I09 Q-Where was this place out in the woods that you spoke of? A-It was close to Eaton Noble's house.

I10 Q-What year was that in? A-It was in I think the last of the year 1864,but I would not be right positively sure as to the date for that is something I can't remember,but I think it was in the latter part of the year '64.

I11 Q-You are certain that it was close to Eaton Noble's house? A-It was in his house.

I12 Q-At Montrose? A-Near Montrose.

I13 Q-How far from Montrose? A-Out east from Montrose about a mile I should say. Would not quite that far perhaps.

I14 Q-He was living there at the time with his family was he not? A-Well he was living there,and his family lived there too at that time I think, but his family was not there personally at that time?

I15 Q-Was John Noble there at the time? A-Yes sir.

I16 Q-Were his sons also there at that time also? A-Yes sir.

I17 Q-How many were they were there? A-Yes sir,-some of them were I know.

I18 Q-How was his family A-I don't know.

I19 Q-Where was his family? A-I don't know.

I20 Q-That is where you heard the revolution road? A-Yes sir.

I21 Q-How long were you there? A-I don't know.

I22 Q-Well about how long? A-Well perhaps two hours.

I23 Q-Who was with you before you recall Noble? A-I can't tell you positively,-

I24 Q-Well was there anybody? A-Yes sir,-David Davis was there,and a man by the name of VanAlstine was there also and some others I don't recollect their names. Davis and VanAlstine and some others were there,I don't recollect what all their names were.

I25 Q-Davis,VanAlstine and Williams were there? A-Yes sir.

I26 Q-Were there any others there? A-Yes sir.

I27 Q-Who were they? A-I told you I could not remember who they were.

I28 Q-You don't know who the others were that were there A-No sir.

I29 Q-Well can you think of any one also that was there A-I know there were more there,but I say I can't think of their names.

I30 Q-Well,John,I think you not there? A-Yes sir,he was there.

I31 Q-Do you remember of his name,don't you? A-Yes sir.

I32 Q-Why did you not say he was there,when you gave a list of the men in the parlor that were there? A-I didn't I said he was there. If I am not very greatly in error I said he was there. I said his name in the first place and I did not think it was necessary to repeat it ~~xxxxxxxxxxxx~~ half a dozen times,for it was understood all the time that he was there.

I33 Q-Can you recollect the date of this occurrence? A-No sir.

I34 Q-What day of the week was it? A-I don't know.

I35 Q-What month was it? A-I don't know. I don't remember the date and I was in no way making up anything about the date for I do not remember it.

I36 Q-Well about what time of the year was it? A-I could not be sure as to that but I think it was about in November 1865.

I37 Q-Don't think it was in November 1865? A-Yes sir,I think it was about that time but that is something I could not be sure about either. That is my best recollection of the time.

138 Q-Was it in cold weather? A-No very.

139 Q-What kind of a day was it? A-It was a little rainy,-I remember the character of the day very well. I remember that it was a little rainy and chilly.

140 Q-Well did Joseph Smith teach you polygamy that day? A-He did not teach it to me no day?-any more than what I have told you.

141 Q-Then he did not teach you polygamy? A-No sir not in that way. He read that revelation read to us,but he did not teach it to me formally any more than what I have told you. He did not speak to me specially and formally on was subject at all. What he said was to all of us and not to any one in particular.

142 Q-Did you ever hear him teach it publicly to any one at any time? A-No sir no more than what I have said,-to three or four or five together at a time.

143 Q-Did you ever hear him teach it from the stand? A-No sir.

144 Q-Did you ever hear any elder of the church preach it publicly from the stand in Nauvoo? A-Yes sir I did.

145 Q-When did you hear that? A-I can't give you the date.

146 Q-Well was it before the death of Joseph Smith? A-No sir it was right away after his death. Will you permit me to tell you who it was?

147 Q-Yes sir? A-Well it was William Smit ,and he was an apostle in the church before he was expelled or dis-fellowshipped,and I heard him preach it publicly from the stand there in Nauvoo.

148 Q-What time was it that he preached it? A-That very year after Joseph's death in 1844.

149 Q-How do you say that he preached it publicly from the stand in x Nauvoo at that time? A-I do.

150 Q-Well what did he say? A-A great many things. For instance he undertook to prove that it was right and that that order of marriage would be restored,and he preached so many strange things there to the people that elder John Taylor got up and corrected him,and I was a witness there to the whole proceeding myself. This is not hearsay but something that I witnessed myself. John Taylor said that he had no authority to preach or teach any such a thing,even if it was true,and said that it was unjust to his brother and injuring him. Now that is what I heard,and William Smith is the only man I ever heard preach it publicly in Nauvoo.

151 Q-Then William Smith was telling the truth about it and John Taylor stopped him? Is that what you say? A-No sir,for he told more than the truth., He said it was the right of a man to have more wives than one when it was not the right,for it was forbidden.

152 Q-Then it was forbidden? A-Yes sir,except there,-except they were given by a man having authority to do it,or under his authority. Now it was for that that he was cut off from the church

153 Q-Who was cut off from the church? A-William Smith was cut off from the church for that,-I know that.

154 Q-What year was that? A-It was that winter.

155 Q-The winter of '44? A-Yes sir,and do you want me to tell you the particulars?

156 Q-Well,was he cut off in the winter of '44? A-Well I don't know just the season of the year it was,but it was about that time,and I think it was that winter. He was a bad man,and he went and disgraced a woman that lives in this town to day,and I can tell you who it xxx is. I can tell you a good many thi thing about this business perhaps that you don't want to know if I like to do so.

157 Q-Well sir if you will confine yourself to answering the questions I ask you,you will find that you ~~have~~ will have quite enough to attend to? A-Well you asked me if I heard it preached there at Nauvoo,and I told you of one man whom I heard preach it.

158 Q-Well now you answer this question,-was William Smith cut off from the church in 1844? A-I don't know.

159 Q-Well was it in 1845? A-I don't remember.

160 Q-You don't know the year he was cut off in? A-No sir,not exactly

161 Q-Do you know that he was ever cut off? A-Yes sir,he was.

162 Q-Were you present when he was cut off from the church? A-I was.

163 Q-You are sure of that? A-Yes sir.

164 Q-Did you raise your hand and vote for it? A-I did.

165 Q-Who put the question? A-I think it was Brigham Young. I would not be sure about that but I think it was Brigham Young.

166 Q-In what body or by what body was he tried? A-Well I think it was the Twelve. I think it was by the Twelve,but I was before the whole church after that.

167 Q-Was Smith present? A-Yes sir.

168 Q-Did he make any defense,-did he? A-Yes sir he did,before he was cast before the church.

169 Q-Was he tried before the High Council? A-I do not know whether he was or not.

170 Q-Did they cut him off for practicing ~~anyway~~ polygamy? A-No sir.

171 Q-Well what was it they tried him for? A-For teaching false doctrines. It was not for practicing polygamy,-it was for teaching false doctrines.

172 Q-Did they cut him off for teaching polygamy? A-No sir,not that I know of.

173 Q-It was for teaching false doctrines? A-Yes sir.

174 Q-What was the false doctrine that he taught? A-Why he taught that any man,the "son of Jacob",as he called him,and he was a son of Jacob,-any man in Israel,had a right to as many wives as he could support.

175 Q-And he was cut off from the church because he taught that? A-Yes sir.

176 Q-What was that he was cut off for? A-Yes sir,and because he began to practice it.

177 Q-And that was in '44 or '45,was after Joseph Smith's death? A-Yes sir.

178 Q-What time did you unite with the church? A-The first day of September 1838.

179 Q-You joined the church in September 1838? A-Yes sir.

180 Q-Where did you become a member of the church? A-In Pike County Missouri.

181 Q-Where did you go after that? A-After that?

182 Q-After you united with the church? A-Where did I go?

183 Q-Yes sir? A-I went from there to Nauvoo.

184 Q-You moved from Pike County Missouri,to Nauvoo? A-Yes sir.

185 Q-Did you go to Nauvoo right away? A-No sir,but in six or eight months I did.

186 Q-When you united with the church in September 1838,what was the doctrine of the church in reference to having more wives than one? A-I never heard anything about it at that time.

187 Q-Was it not the doctrine of the church,-did you not know what the law of the church was on the subject at that time,-that is at the time you joined the church? A-About having wives?
188 Q-Yes sir? A-I never heard anything about it at that time.
189 Q-You had not heard anything about it at all? A-No sir'
190 Q-Did you not know the section on marriage that was in the book of Doctrine and Covenants at that time? A-Yes sir.
191 Q-You did? A-Yes sir.
192 Q-Does that permit a man to have more wives than one? A-Well there was no practice of that kind then that I knew anything of.
193 Q-Will you answer my question? A-I have tried to do so.
194 Q-Well you have not succeeded very well in your effort? A-What is the question?
195 Q-You say you knew at that time that the law of marriage was as printed in the book of Doctrine and Covenants? A-Yes sir.
196 Q-Well I ask you if it is not a fact that that did not permit a man to have more than one wife? A-Yes sir. Every man can read that for himself. It says that one man shall have but one wife,and one woman shall have but one husband. That is what it says and you can interpret it for yourself as you please.That is what it said,and I do not wish to pervert the language at all.
197 Q-Did you think when you joined the church that you could be permitted to have more wives than one? A-I did not know anything about it at all. They preached the doctrine of the church to me,and I accepted it,and there was nothing said about it at that time. Of course I understood the laws of the church at that time to be the laws laid down in the book of Doctrine and Covenants,but I understood there might be additions made to it as the Lord could see fit to reveal himself to his church through the prophet.
198 Q-Let me refresh your recollection,and see if you recollect this as being the book of Doctrine and Covenants when you joined the church in 1838. I will read paragraph four of section one hundred and one on page two hundred and fifty one of Exhibit "M". It is as follows,-"All legal contracts of marriage made before a person is baptized in to this church, should be held sacred and fulfilled. Inasmuch as this Church of Christ has been reproached with the crime of fornication and polygamy;we declare that we believe that one man should have one one;and one woman but one husband except in case of death,when either is at liberty to marry again. It is not right to persuade a woman to be baptized contrary to the will of her husband,neither is it lawful to influence her to leave her husband. All children are bound by law to obey their parents;and to influence them to embrace any religious faith,or be baptized,or leave their parents without their consent is unlawful and unjust. We believe all persons who exercise controll over their fellow beings and prevent them from embracing the truth will have to answer for that sin". I have read the whole paragraph to you,and now I will ask you if that was the law at the time you became a member of the church in 1838? A-I don't know a thing about it at all only as I read it there,and anything I might say would be merely my opinion,and I do not wish to put an interpretation on that matter at all but leave it just as I find it.
199 Q-Well I have read it just as it reads here? A-Yes sir.
200 Q-Now do you say that teaches polygamy? A-I do not.
201 Q-Then the law of the church says that one man shall have but one wife,and one woman but one husband,when you joined the church? A-That was the way I understood it.

202 Q-And you were never taught any other law than that by Joseph Smith? A-I have been.
203 Q-You were? A-Yes sir.
204 Q-Then? A-It was taught in his presence.
205 Q-How was it taught? A-Well the revelation on celestial marriage had come before that was taught in his presence.
206 Q-The revelation on celestial marriage permit one man to be married to his wife that was living, due to his wife that was dead, did it not, and was that the all there was to it? A-Yes sir it was that, and it was more for it was as it is taught in the revelation here, concerning celestial marriage, that a man in certain conditions,-
207 Q-Well, was not this it,-"it is not right to prevent a woman to be married contrary to the will of her husband? A-Yes sir I said that, for I know it is there now there.
208 Q-Was at the time the first note that you ever heard mentioned publication of that revelation on polygamy? A-I don't know sir, and I don't know that I ever took note of it before.
209 Q-Did you know of it before it was printed in the book of Doctrine and Covenants? A-No sir.
210 Q-You never saw it before it was printed, did you? A-I told you that I did not see it. I saw that purported to be the manuscript but I did not read it or see what was written.
211 Q-How did you see it? A-I saw it in the hands of the clerk that read it.
212 Q-Are you willing to swear that the revelation that is printed in this book of Doctrine and Covenants(the book published by the church in Utah)is the identical paper that was read to you in Nauvoo? A-No sir.I did not say it was the same.
213 Q-Well where was it you heard it read? A-It was in Nauvoo.
214 Q-Well you could not do that,could you? A-No sir.
215 Q-Say the revelation or alleged revelation that you have read at Nauvoo was the same as the one printed in this book A-I told you in the beginning I could not say it was the same,but I believe it is the same for it is said to be the same.
216 Q-Who said it was the revelation? A-The clerk that read it. He said that,and it was sanctioned by the President of the church there at that time.

217 Q-Did he say it was a revelation on marriage,or a revelation on celestial marriage,or a revelation on plural marriage? A-I said it was called a revelation on celestial marriage,and it was taught as it is in there. It is sounded just like that that is printed in there. There is no difference that I can see and I believe them to be the same.
218 Q-How many pages of manuscript is there,or was there in the manuscript? A-I don't remember anything about that.
219 Q-Well was there twenty? A-I don't know.
220 Q-Well have you any recollection on that subject? A-I cannot say. I did not pay any attention to it in that way at the time. For I did not feel the importance of counting the pages at the time.
221 Q-Well what was the clerk's name that read it? A-I don't know. I told you in the beginning that I did not know,and I did not. I don't think I ever did know his name. He was a man that was a stranger to me,and he came there with the prophet I think and was

called on to read it and did read it,but I don't know what his name was. I don't think that I had ever seen him before that time or after that time either for that matter.

223 Q-Was that resolution that was read to you there,for sealing for eternity? A-Yes sir.

224 Q-And it provided that when a man had been married,and his wife died,he was permitted to take another wife? A-It did not say anything seem that,that I know of,only as it is written in here.

225 Q-Writ on there? A-In the book there,-that is as near as I can remember what it says.

226 Q-Will state how that is written in there? A-I will tell you if you will give me time to explain what I mean to you.

Q-Well never mind your explanations. If those gentlemen want your explanations they can call for them at the proper time,but I want you to state how it is written in the book? Yes,if you can? A-Well I can't do it,but I am ready to read it to you if you want me to do it. I can't remember all that is in it only in a general way,but I can read it to you if you desire me to do so,and then you can see for yourself what is in it.

227 Q-Then you cannot tell what is in it without reading it,or hearing it read? A-No sir,for I never committed it to memory sir.

228 Q-It may be changed from the way it was when it was read to you by this man,those words you do not know,-might it not be changed from the way it was when it was read to you on that occasion,are you not from it? A-I don't know,-it might say?

229 Q-I mean that in the printing of it,it might have been changed from the way it was when it was read to you in Illinois,and you could not be able to have or select the change? A-Well I don't say for I never saw the inside of the manuscript,but I say to the best of my knowledge and recollection that represents it nearly,-that is the language of the document,and this one here,that there is no change or difference in it.

230 Q-Now, did not the document that you read consist of only one page of manuscript? A-I don't know.

231 Q-All that is your best recollection as to it? A-I don't know how many pages there was.

232 Q-Was there more than one page? A-I think so,but I can't say positively.

233 Q-Was not the document on selected marriage only? A-Well I say I don't know what all was in it.

234 Q-Well is this not what you recollect that was stated in that document that you heard read,-that a man could be sealed to his wife in case she died,and to his wife that had died? A-Well of course. Afterwards he told me that was larger.

235 Q-And that was all he did tell you? A-No sir.

236 Q-Was that not all he did tell you? A-No sir it was not all he told me a good deal.

237 Q-Well what else did he tell you? A-Well sir he told me a good deal that is not competent to this case,and that has nothing to do with this case.

238 Q-That is your judgment? A-Yes sir that is my final judgment that it would not be for your benefit or the benefit of any gentleman here. I will answer any question you ask me as best I can,but that is not competent to this case at all,for I certainly shall not undertake to tell you all that Joseph Smith disclosed

to me about the doctrines of the church.

239 Q-Well I have not asked you to do that? A-Well you have come pretty near to asking me that,and in my judgement and recollection I have told you repeatedly all that I care to tell you about it,and there is no use of questioning me any further sir.

240 Q-Well never mind sir. Then I want advice as to what questions I shall ask you? I shall probably go elsewhere for advice,and I want you to understand that there is no use getting excited over the matter,for I propose to ask you just what questions I see proper to ask you,and I propose also that you shall answer them,or we shall see what can be done towards making you do so. Now you said that these certificates that you read from the Times & Seasons here,that were signed by those parties,all pertained to the correct doctrine? A-What is that?

241 Q-I mean you to say that the certificates you read here to us from the Times and Seasons,signed by those different parties who were members,members of the church here at Nauvoo,-only pertained to the doctrine taught by John C. Bennett? A-Yes sir that is the way I understood it.

242 Q-It did not relate to illegal marriages or anything of that kind, was it revelation? A-No sir I did not so understand it.

243 Q-Well now let us read this to you? A-I don't know but they had, there was testimony here,but that morning witness I know was the occasion of it.There was a man there forgetting that fact there and they announced it as I understand it,assuming that to be,if was unlawfully,for I by every not successfully practiced in public,each those if true,and the very did was obliged to leave here unknown,-I know that.

244 Q-Were they permitted to teach it privately? A-Well I don't know any body that has a right to do that.

245 Q-There was no question,-was of any body that pretended to teach it either publicly or privately liable to excommunication? A-You sir mean if was done under certain conditions. They were liable to be excommunicated or disfellowship,or unless they had the authority to do it from the man that held the keys of that priesthood. I know if I had taught it x I would be liable to be excommunicated mighty quick.

246 Q-Well now I will read here,-"We the undersigned members of the church of Jesus Christ of Latter Day Saints,and residents of Nauvoo or Hancock counties of Illinois,do hereby certify and declare that we know of the other mode or system of marriage, than the one published from the book of Doctrine and Covenants,and we have this certificate to show that Mr J.C.Bennett's secret order system is a creature of his own make,as we know of no such society in this place,now never did" Do you recognize that? A-Yes sir.

247 Q-Was there a plurality of wives, anything in that? A-No sir, I do not want me to answer that is it isn?

248 Q-Yes sir? A-I believe what is stated there is the truth,for there was no other system of marriage at that time but what was in the book of Doctrine and Covenants,for this was not called a system of marriage,for it was sealing,-it was not the marriage ceremony at all.

249 Q-You recollect reading the law of the church on marriage that was published in the same paper that this certificate was in? A-Yes sir,and I knew what the law on marriage was as it was published

250 Q-Published in what? A-In the book of Doctrine and Covenants.
251 Q-Well it was printed in the same paper,and on the same page was it not? A-Yes sir,and it was not pertaining to the original covenant,nor the ceremony.
252 Q-Are you prepared to give a certificate to show that Mr.J.C.Bennett's secret wife system is a creature of his own make,as we know of no such society in this place,nor never did? What do you say to that? A-Yes sir, that is true I guess. I don't think there is much to argue with that.
253 Q-Well was there a different system of marriage from that in the Doctrine and Covenants? A-Only certain men were permitted to take them,and if they were worthy were sealed to them for time and eternity. That was the way it was,but that had nothing to do with what is stated in this certificate that I gave.
254 Q-It was not a marriage at all then? A-It was a celestial marriage.That is what it is called.
255 Q-If it was celestial marriage it did not refer to this world at all did it? A-Well I think that the ceremony will say that they were sealed for time and eternity
256 Q-Could you that was the ceremony,-these words"seal you for time and eternity"? A-Yes sir.
257 Q-And you have read the ceremony,-those words"seal you for time and eternity"? A-Yes sir.
258 Q-Is you know it performed? A-Yes sir.
259 Q-You have heard the ceremony performed? A-Yes sir,I have heard the ceremony performed.
260 Q-You have heard it performed there by Hyrum before Joseph Smith died? A-Yes sir.
261 Q-Have you ever heard the ceremony performed before the death of Joseph Smith? A-No sir.
262 Q-You have [illegible] of the ladies of the polygamic society, and [illegible] to certify and declare that we know of no such [illegible] marriage being performed in the Church of Jesus Christ of Latter Day Saints ,save the one contained in the book of Doctrine and Covenants,and we give this certificate to the public to show that J.C.Bennett's secret wife system is a creature of his own make". You recollect that? A-Yes sir.
263 Q-[illegible] correct? A-I [illegible] nothing more about it.
264 Q-Did you ever hear of any other system of marriage practiced save the one taught in the book of Doctrine and Covenants? A-Yes sir.
264 Q-Will you state the other marriages? A-I don't know of any exception only that he has the right to practice it,and giving other men the right to do so,-that is giving other men wives if they were competent to receive them. For I don't know of any other only that in the church,-excepting where a man wanted to be married to a lady himself or a minister.
265 Q-When you say there was no other system taught as the doctrine or be church or practiced as the doctrine of the church except excepting that taught in the book of Doctrine and Covenants? A-I don't know of any other only this revelation,-that was all.
266 Q-You never saw the revelation to read it yourself,did you? A-I have told you that three times at least I believe. I have told you that I did not.
267 Q-You have? A-Yes sir,I have and I am ready and willing and anxious to answer any questions you may ask me,but I

must decline to answer that question any more.

268 Q-Did you hear Joseph Smith announce that John C.Bennett secret wife [illegible] from the stand in Nauvoo,in a public sermon? A-Yes sir.

269 Q-Did you in 1844 was it not? A-Well I, think so.? I could not be sure as to dates,but I think so. I was at the meeting and I heard it, I remember,but the date of that is something that I do not remember.

270 Q-Do you know that Hyrum Smith got a man off from the city jail for beating Bennett? A-I don't remember about that.

271 Q-And it was published in the church papers? A-I don't know. I seem to be that I heard something about it ,but I don't remember now if I did. I haven't the slightest doubt but that it is, for it seems to me that I remember something about it ,but I can't recollect just how it was.

272 Q-Did you not see Mr. Smith in Nauvoo when he was [illegible] John C. Bennett secret wife's shame,then publicly declare that there was not any such a system or doctrine in the church? A-What system?

273 Q-As a man having more than one wife at the same time? A-I do not recollect. If he said that I don't think I heard it.

274 Q-Well that did he say about it? A-He said that there was no such a system as that introduced or practiced by John C. Bennett he said it was hell, and that I make that, peculiar it so hell. He said that and a good many other things that I cannot now recollect. I don't remember just all that he did say about it.

275 Q-You have read this book as the times & Seasons did you not? A-Yes sir.

276 Q-Well I turn to page seven hundred and fifteen for the purpose of refreshing your recollection. This is an article published the 16th of November 1844,and it reads thus,-"The saints of the last days have witnessed the outpouring and the teachings of so many apostates,that notwithstanding their efforts has any effect on them. I, in my proper instance,after the shameless proclamations of Sidney and his cliques,from the Times,Book of Mormon and Doctrine and Covenants,to shift off upon the innocent scapegoat of spiritual wives,which is brought into the account as necessary as it was law of the land allowing a man a plurality of wives,is ridiculous,and like the case of Sidney's revelation just because he wrote. to go to Pittsburg and lie,

Go to Law and or use the still less military lie to injure my character. Go to. The law of the land and the rules of the church do not allow one man to have more than one wife alive at a time once, but if any man's wife die he has a right to marry another,and to be sealed to both for eternity;to the living and the dead. There is no law of God or man against it, this is all the spiritual wife system that ever was tolerated in the church,and they know it". Now do you recollect reading that when it was published? A-Yes sir,I think I do.

277 Q-That was the law of the church then was it not? A-Well that says so.

278 Q-And that was that was taught,was it not? A-Yes sir,-I don't know what was taught secretly,but I know if I had taught anything else I should have been cut off from the church.

279 Q-And you would have been cut off because the church did not accept any other doctrine? A-As a church it had not,because it had not come to the church at that time,but it was revealed to certain men in the church with the assurance that it would in the

[illegible] in fully recognized as the church, and it was.

280 Q-Is that now or at that time been recognized as the doctrine of the church or not? A-No sir, I don't know how far they had accepted it.

281 Q-Well had they accepted it as a church,-had the church as a church accepted it? A-I don't know what portion of it had [illegible] by the church, or what portion or branch of the church had adopted it.

282 Q-Well do you know of any branch that did? A-I believe I do.

283 Q-Well what branch of the church was it? A-The Twelve Apostles.

284 Q-Is the Twelve Apostles a branch of the church? A-Yes sir.

285 Q-How many of them are there? A-[illegible] branch.

286 Q-Who are they? A-Yes sir, the [illegible] in the church.

287 Q-Do you know that they did accept it at that time? A-I don't [illegible] some of them.

288 Q-Will do you know that they had at a long [illegible] time? A-I don't [illegible] as they had individually, for I never [illegible].

289 Q-Did you ever know there was any doubt in a meeting of the church? A-No sir, I never heard about it [illegible].

290 Q-Well now I want to read for Mr. John Taylor [illegible] about it [illegible], and he was the editor [illegible], was he not? A-Yes sir.

291 Q-[illegible] Times & Seasons of Nov. 1, 1842 by [illegible] of [illegible] 1842, in the case of the [illegible] published [illegible] "old [illegible] of [illegible]", and is referring editorially to that communication,-"For the correspondent of an [illegible] of Lyndal, and the [illegible] of other Mormon Papers from the interior of the Pacific Ocean, [illegible] "[illegible] of that to [illegible] to that?

Counsel for the defendants objects to the question and the witness: for the reason "That there is no evidence that John Taylor ever wrote such an editorial or that he ever read or saw it".

292 Q-John Taylor was the editor of the Times & Seasons, [illegible] A-I don't know what he was or had from that he was the editor at that time, if I am [illegible] what he was or [illegible] that time.

293 Q-Well this you know is the [illegible] of November 1842, and [illegible] from that he was the editor of the Times & Seasons [illegible]? A-"The Times & Seasons is published about the third and fifth of each month, on the corner of Water and Main Streets, Nauvoo, Hancock County, Illinois, by John Taylor, editor and proprietor. Terms,-two dollars per annum payable in the [illegible]. Any person procuring five new subscribers, and forwarding the cash, shall receive one volume gratis. All letters and communications to John Taylor, editor, post paid, or they will not receive attention. That is correct. I haven't any doubt about that.

294 Q-About that? A-But that he was the editor as it is stated there.

295 Q-He was one of the apostles at that time, wasn't he? A-Well you sir he was.

296 Q-Then is it a fact that there was no such a decline as [illegible] the plural wife doctrine accepted by the church at that time? A-I did not so state. It was not taught or practiced openly. It was not taught nor generally preached that I know anything about.

297 Q-Well it had not been accepted by the church,-had it been presented to the church,and by the church accepted? A-I don't know about that.

298 Q-Well that is, our best recollection about that? A-Well I say I do not that I know anything about?

299 Q-You do not know that is? A-No sir.

300 Q-You have not been since that time,don't you? A-Yes sir,I do

301 Q-Many ?-Well the first time that I received authority to teach it publicly was in 1852 I think.

302 Q-That was the first time you received authority to teach it publicly? A-Yes sir. I would not be positive as to the date, but I think that was about it was.

303 Q-And you have been teaching ever since? A-Well most of the time. I teach it still the last report I saw then I stopped.I do not feel it is proper or [illegible] to be practiced by the Latter Day Saints Church,and then I stopped, and after-wards I will the rest of the church in conference assembled to adopt the recommendation of President Woodruff.

304 Q-To I now the revelation on plural marriage was the law of God and it only? A-Yes sir,to a certain extent.

305 Q-Well did you not regard it as such,and teach it as the law of God? A-No I did not teach it as the law of God any further than I taught it as a revelation from God,that was to be applied when it was proper for there was a man required to receive it from a proper authority. I never did feel in my life that I thought it was proper to go and get him a wife, or assist in it by but my,never. I have never said that I believed in it,any sooner than my reasons for believing in it

but I have not said that they were under contradiction to practice it at all.

306 Q-Then you did not have any such faith in its truth? A-I did believe it to be true as it was written and given to Joseph Smith. There is no doubt sir in my mind but that it was just what it purported to be.

307 Q-Yes sir,and this revelation itself teaches that a man cannot be exalted in the celestial kingdom unless he has more wives than one? A-No sir it does not.

308 Q-Do you undertake to say that it does not teach that? A-I do,-not in that language.

309 Q-Well don't it in substance teach that? A-No sir not exactly that.

310 Q-Well what does it teach if it does not that,-what does it teach in their? A-Well I told you I could not remember just what was in it ,but if you do not know I will read it to you section by section for and you can see just what is in it, for yourself.

311 Q-Well sir I don't care about your reading it section by section or any other way. You were testified here that the revelation that you say was given to Joseph Smith ,and which you heard read here in Iowa some place at a place called Centreville was the same as the alleged revelation published in the book of Doctrine and Covenants here,and to do that you must know what was in both of them. I asked you if the revelation published by the church here did not teach that a man in order to be exalted must have more wives than one,and you say it does not teach that,and I ask you now what it does teach if it does not teach that?

Counsel for the defendants object to the question asked the witness on the ground that for the reason that it is immaterial, and calls for an opinion of the witness.
A-I will read it to you, or you can read it for yourself if you want to, and then you will know as well as I do what it teaches, for it speaks for itself.

313 Q-I will get you to look at section 132 of defendants Exhibit "A" and I will ask you if that was or is the revelation on plural marriage that was adopted by the church of which Brigham Young was the President, here in Salt Lake, in 1890? A-Not without my acquaintance with it.

314 Q-I ask you if section 132 of defendants Exhibit "A", was the revelation or all of a revelation that was accepted by the church here in 1890, of which Brigham Young was the President in 1890,-is that the revelation on plural marriage that was adopted at that time? A-Well I was not here. I was not born at the time, and I recall to a letter in England for I was in England at the time, but I have no doubt but that is the one that was received by the church. It was in the church before that time and was practiced before that, but it had not been formally accepted by the church, and that was the first time that the church gave a formal or authoritative doctrine publicly. I know I was in England and I received authority to do that,-that is to publicly announce the principle, and I say that it was right that after action had been taken by the church here that I received permission to do so.

315 Q-Well is that the revelation that you were permitted to preach for the first time in 1852? A-Well I never did preach it before that time at all.

316 Q-Well is that the revelation,-this one for 1852? A-Yes sir that is the revelation.

317 Q-And that is the revelation you were permitted to preach after that time? A-Yes sir. Q-After 1852 I think it was. A-I don't know that there was anything particular about it, but I was after that permitted to make it more generally and publicly the contents of the revelation,-that is publicly to the church you know I travelled to the various branches of the church with which I came in contact. Of course I had known of this thing before,-for years before, but of course I had not been permitted to preach it or teach it to the church until that time that formal permission was given me to do so.

318 Q-Why did you not preach it or teach it before that time? A-Simply because we were not authorized to do so in England or any where else, until formal permission had been given us to do so, and if we had done so we would have been cut off from the church for doing it.

319 Q-Well you say that you received notice of its adoption by the church, and permission to preach it? A-Yes sir.

320 Q-How long before that time had it been adopted by the church? A-Well I don't know.

321 Q-You do not know how long before that time it had been published to the church? A-I don't know.

322 Q-Was it ever been published before 1852? A-I don't know that it had been. It might have been but I don't think so.

323 Q-Was it been published in any book? A-I don't know.

324 Q-You never saw it published before that? A-No sir. Not that I

[illegible]

[illegible]

[illegible]

8 Behold, mine house is a house of order saith the Lord
God, and not a house of confusion.
9 Q-Will I accept of an offering saith the Lord, that is
not made in my house.
10 Or will I receive at your hands that which I have not
appointed.
11 And will I appoint unto you, saith the Lord, except it
be my law, even as I and my father ordained unto you before
the world was.
12 I am the Lord thy God, and I give unto you this command-
ment, that no man shall come unto the Father but ~~xx~~, by me, or
by my word which is my law saith the Lord.
13 (-And everything that is in the world, whether it be
ordained of men, by thrones or principalities, or powers, or
things of name, what-so-ever they may be, that are not by me or
by my word, saith the Lord shall be thrown down, and shall not
remain after men are dead, neither in or after the resurrec-
tion, saith the Lord our God.
14 For whatsoever things remain, are by me; and what so ever
things are not by me shall be shaken and destroyed.
15 Therefore if a man marry him a wife in the world and
he marry her not by me, nor by my word, and he covenant with ~~xx~~
her so long as he is in the world, and she with him, their
covenant and marriage are not of force when they are dead, and
when they are out of the world; therefore they are not bound
by any law when they are out of the world.
16 Therefore when they are out of the world they neither
marry nor are given in marriage; but are appointed angels
in heaven, which angels are ministering servants, to minister
for those who are worthy of a far more, and an exceeding and
an eternal weight of glory.
17 For these angels did not abide my law, therefore they
cannot be enlarged, but remain separately and singly without
exaltation in their saved condition to all eternity, and from
henceforth are not Gods, but are angels of God for ever and
ever.
18 And again, verily I say unto you if a man marry a wife,

and make a covenant with her for time and all eternity, if
that covenant is not by me or by my word, which is my law, and
is not sealed by the Holy Spirit of promise through him whom
I have anointed and appointed to this power,-then it is not
valid, neither of force when they are out of the world, be-
cause they are not joined by me saith the Lord, neither by my
word; when they are out of the world it cannot be received
there, because the angels and the Gods are appointed there, by
whom they cannot pass; they cannot therefore inherit my glory,
for my house is a house of order saith the Lord God.
19 And again, verily I say unto you that if a man marry a
wife by any word-which is in my law, and by the new and ever-
lasting covenant and it is sealed unto them by the Holy
Spirit of promise, by him who is anointed unto whom I have
appointed this power and the keys of the priesthood; and it
shall be said unto them, ye shall come forth in the first
resurrection; and if it be after the first reserrection, in the
next reserrection; and shall inherit thrones, kingdoms, princi-
palitiesand powers, dominions, all geights and depths,-then
shall it be written in the Lambs book of Life that he shall
commit no murder whereby to shed innocent blood it shall be
done unto them all things what soever my servant hath put
upon them, in time and through all eternity, and shall be of
full force when they are out of the world; and they shall pass
by the angels and the Gods which are set there to their ex-
altation and glory in all things, as hath been sealed upon
their heads, which glory shall be a fulness and a continuation
of the seeds for ever and ever.

20 Then shall they be Gods,because they have no end;there fore shall they be from everlasting to everlasting because they continue;then shall they be above all,because they have all power,and the angels are subject to them.
21 Verily,verily I say unto you,except you abide my law, ye cannot attain this glory.
22 For straight is the gate,and narrow the way that leadeth unto the exaltation and continuation of the lives,and few there is that find it because ye receive me not in the world,neither do ye know me.
23 But if ye receive me in the world,then shall ye know me, and shall receive your exaltation,that where I am there shall ye be also.
24 This is eternal lives,to know the only wise and true God,and Jesus Christ whom he has sent. I am he. Receive ye, therefore,my law.
25 Broad is the gate and wide the way that leadeth to the deaths,and many there are that go in thereat;because they receive me not,neither do they abide in my law.
26 Verily,verily I say unto you,if a man marry a wife according to my word,and they are sealed by the Holy Spirit of promise,according to mine appointment,and he or she shall commit any sin or transgression of the new and everlasting covenant whatever,and all manner of blasphemies,and if they commit no murder therein they shed innocent blood,-yet they shall come forth in the first reserrection,and enter into their exaltation;but they shall be destroyed in the flesh,and shall be delivered into the buffetings of Satan unto the day of redemption,saith the Lord God.
27 The blasphemy against the Holy Ghost,which shall not be forgiven in the world,nor out of the world,is that ye commit murder,wherein ye shed innocent blood,and assent unto my death,after ye have received my new and everlasting covenant, saith the Lord God;and he that abideth not this law can in no wise enter into my glory,but shall be damned saith the Lord God.
28 I am the Lord thy God,and will give unto thee the law of my Holy Priesthood,as was ordained by me,and my Father before the world was.
29 Abraham received all things,whatsoever he received by revelation and commandment by my word,saith the Lord,and hath entered into his exaltation,and sitteth upon his throne.
30 Abraham received promises concerning his seed,and of the fruit of his loins,-from whose loins ye are,namely,my servant,Joseph,-which were to continue so long as they were in the world;and as touching Abraham and his seed,out of the world they should continue;both in the world and out of the world should they continue as innumerable as the stars or if ye were to count the sands upon the seashore ye could not number them.
31 This praise is yours,also,because ye are of Abraham, and the promise was made unto Abraham;and by this law are the continuation of the works of my Father,wherein he glorifieth himself.
32 Go ye,therefore,and do the works of Abraham;enter ye into my law,and ye shall be saved.
33 But if ye enter not into my law ye cannot receive the promise of my Father,which he made unto Abraham.
34 God commanded Abraham,and Sarah gave Hagar to Abraham to wife. And why did she do it? Because this was the law, and from Hagar sprang many people, This,therefore was fulfilling,ameng other things,the promises.
35 Was Abraham therefore,under condemnation? Verily,I say unto you,Nay;for I,the Lord,commanded it.

36 Abraham was commanded to offer his son Isaac;nevertheless it was written,thou shalt not kill. Abraham,however did not refuse,and it was accounted unto him for righteousnes
37 Abraham received concubines;and they bear him children and it was accounted unto him for righteousness,because they were given unto him and he abode in my law,as Isaac also,and Jacob did none other things than that which were commanded; and because they did none other things than that which they were commanded,they have entered into their exaltation,according to the promises,and sit upon thrones,and are not angels, but are Gods.
38 David also received many wives and concubines,as also Solomon and Moses,my servants;as also many others of my servants,from the beginning of creation until this time;and in nothing did they sin,save in those things which they received not of me.
39 Davids wives and concubines were given unto him of me, by the hand of Nathan,my servant,and others of the prophets who had the keys of this power;and in none of those things did he sin against me,save in the case of Uriah and his wife; and therefore he hath fallen from his exaltation,and receiveth his portion;and he shall not inherit them out of the world; for I gave them unto another saith the Lord.
40 I am the Lord thy God,and I gave unto thee my servant Joseph,an appointment,and restore all things;ask what ye will and it shall be given unto you according to my word;
41 And as ye have asked concerning adultery,-verily, verily,I say unto you,if a man receiveth a wife in the new and everlasting covenant,and if she be with another man,and I have not appointed unto her by the Holy annointing,she hath. commited adultery,and shall be destroyed.
42 If she be not in the new and everlasting covenant,and she be with another man, she has commited adultery;
43 And if her husband be with another woman,and he was under a vow,he hath broken his vow,and hath commited adultery.
44 And if she hath not commited adultery,but is innocent and hath not broken her vow,and she knoweth it,and I reveal it unto you,my servant Joseph,then shall you have power,by the power of my Holy Priesthood,to take her,and give her unto him,that hath not committed adultery but hath been faithful; for he shall be made ruler over many;
45 For I have conferred upon you the keys and the power of the Priesthood wherein I restore all things,and make known unto you all things in due time.
46 And verily,verily I say unto you,that whosoever you seal on earth,shall be sealed in Heaven;and whatsoever you bind on earth in my name,and by my word saith the Lord,it shall be eternally bound in the heavens;and whatsoever sins you remit on earth shall be remitted eternally in the Heavens ;and whosoever sins you retain on earth,shall be retained in Heaven.
47 And again,verily I say, whomsoever you bless,I will bless,and whomsoever you curse,I will curse,saith the Lord; for I,the Lord,am thy God.
48 And again verily I say unto you,my servant Joseph, that whatsoever you give on earth,and to whomsoever you give any one on earth,by my word and according to my law,it shall be visited with blessings,and not cursings,and with my power, saith the Lord,and shall be without condemnation on earth and in heaven;
49 For I am the Lord thy God,and will be with thee even to the end of the world,and through all eternity;verily I seal upon you your exaltation,and prepare a throne for you in the

36 Abraham was commanded to offer his son Isaac;nevertheless it was written,thou shalt not kill. Abraham,however did not refuse,and it was accounted unto him for righteousnes
37 Abraham received concubines;and they bear him children and it was accounted unto him for righteousness,because they were given unto him and he abode in my law,as Isaac also,and Jacob did none other things than that which were commanded; and because they did none other things than that which they were commanded,they have entered into their exaltation,according to the promises,and sit upon thrones,and are not angels, but are Gods.
38 David also received many wives and concubines,as also Solomon and Moses,my servants;as also many others of my servants,from the beginning of creation until this time;and in nothing did they sin,save in those things which they received not of me.
39 Davids wives and concubines were given unto him of me, by the hand of Nathan,my servant,and others of the prophets who had the keys of this power;and in none of these things did he sin against me,save in the case of Uriah and his wife; and therefore he hath fallen from his exaltation,and receiveth his portion;and he shall not inherit them out of the world; for I gave them unto another saith the Lord.
40 I am the Lord thy God,and I gave unto thee my servant Joseph,an appointment,and restore all things;ask what ye will and it shall be given unto you according to my word;
41 And as ye have asked concerning adultery,-verily, verily,I say unto you,if a man receiveth a wife in the new and everlasting covenant,and if she be with another man,and I have not appointed unto her by the Holy anointing,she hath commited adultery,and shall be destroyed.
42 If she be not in the new and everlasting covenant,and she be with another man, she has commited adultery;
43 And if her husband be with another woman,and he was under a vow,he hath broken his vow,and hath commited adultery.
44 And if she hath not commited adultery,but is innocent and hath not broken her vow,and she knoweth it,and I reveal it unto you,my servant Joseph,then shall you have power,by the power of my Holy Priesthood,to take her,and give her unto him,that hath not committed adultery but hath been faithful; for he shall be made ruler over many;
45 For I have conferred upon you the keys and the power of the Priesthood wherein I restore all things,and make known unto you all things in due time.
46 And verily,verily I say unto you,that whatsoever you seal on earth,shall be sealed in Heaven;and whatsoever you bind on earth in my name,and by my word saith the Lord,it shall be eternally bound in the heavens;and whatsoever sins you remit on earth shall be remitted eternally in the Heavens ;and whosoever sins you retain on earth,shall be retained in Heaven.
47 And again,verily I say, whomsoever you bless,I will bless,and whomsoever you curse,I will curse,saith the Lord; for I,the Lord,am thy God.
48 And again verily I say unto you,my servant Joseph, that whatsoever you give on earth,and to whomsoever you give any one on earth,by my word and according to my law,it shall be visited with blessings,and not cursings,and with my power, saith the Lord,and shall be without condemnation on earth and in heaven;
49 For I am the Lord thy God,and will be with thee even to the end of the world,and through all eternity;verily I seal upon you your exaltation,and prepare a throne for you in the

with Abraham your father.
50 Behold,I have seen your sacrifices,and will forgive all your ~~xxxx~~ sins. I have seen your sacrifices in obedience to that which I have told you,go,therefore,and I make a way for your escape,as I accepted the offering of Abraham,of his son Isaac.
51 Verily,I say unto you a commandement I give unto mine hand-maid,Emma Smith,your wife,whom I have given unto you, that she stay herself,and partake not of that which I commanded you to offer unto her;for I did it,saith the Lord,to prove you all,as I did Abraham,and that I might require an offering at your hand,by covenant and sacrifice.
52 And let mine hand-maid,Emma Smith,receive all those that have been given unto my servant Joseph,and who are virtous and pure before me;and those who are not pure;and have said they were pure,shall be destroyed,saith the Lord God.
53 For I am the Lord thy God,and ye shall obey my voice; and I give unto my servant Joseph,that he shall be made ruler over many things,and from henceforth,I will strengthen him.
54 And I command mine hand maid, Emma Smith,to abide and cleave unto my servant Joseph,and to none else, But if she will not abide this commandment,she shall be destroyed,saith the Lord;for I am the Lord thy God,and I will destroy her, if she abide not in my law;
55 But if she will not abide this commandment,then shall my servant Joseph do all things for her,even as he hath said; and I will bless him.and multiply him,and give unto him an hundred fold in this world,of fathers,and mothers,brothers and sisters,houses and lands,wives and children,and crowns of eternal lives in the eternal worlds.
56 And again, verily I say,let mine hand maid forgive my servant Joseph his trespasses;and then shall she be forgiven her trespasses,wherein she has trespassed against me;and I, the Lord,thy God,will bless her and multiply her,and make her heart to rejoice.
57 And again,I say,let not my servant Joseph put his property out of his hands,lest an enemy come and destroy him; for Satan seeketh to destroy;for I am the Lord thy God,and he is my servant;and behold,and lo,I am with him,as I was with Abraham,thy father,even unto his exaltation and glory.
58Now,as toughing the law of my Priesthood,there are many things pertaining thereto.
59 Verily,if a man be called of my Father,as was Aaron, by mine own voice,and by the voice of him who sent me;and I have endowed him with the keys of the power of this Priesthood,if he do anything in my name and according to my law,and by my word,he will not commit sin,and I will justify him.
60 Let no one therefore,sey on my servant Joseph;for I will justify him;for he shall do the sacrifice which I require at his hands,for his transgressions,saith the Lord your God.
61 And again as pertaining to the law of the Priesthood; If any man espouse a virgin,and desire to espouse another,and the first give her consent;and if he espouse the second,and they are virgins,and have vowed to no other man,then is he justified;he cannot commit adultery,for they are given unto him;for he cannot commit adultery with that that belongeth un to him,and to no one else.
62 And if he have ten virgins given unto him by this law, he cannot commit adultery,for they belong to him,and they are given unto him,therefore is he jusified.
63 But if one,or either of the ten virgins,after she is espoused,~~xxxxxx~~ shall be with another man;she has committed adultery,and shall be destroyed;

for they are given unto him to multiply and replentish the earth,according to my commandment,and to fulfill the promise which was given by my Father before the foundation of the world;and for their exaltation in the eternal worlds,that they may bear the souls of men;for herein is the work of my Father continued,that he may be glorified.

64 And again,verily,verily,I say unto you,if any man has a wife who holds the keys of this power,and he teaches unto her the laws of my Priesthood,as pertaining to these things, then shall she believe,and administer unto him,or she shall be destroyed,saith the Lord your God,for I will destroy her;for I will magnify my name on all those who receive and abide in my law.

65 Therefore it shall be lawful in me,if she receive not this law,for him to receive all things,whatsoever,I,the Lord his God,will give unto him,because she did not administer unto him according to my word;and she then becomes the transgressor;and he is exempt from the law of Sarah,who administered unto Abraham according to the law,when I commanded Abraham to take Hagar to wife.

66 And now as pertaining to this law,verily,verily I say unto you,I will reveal more unto you hereafter;therefore let this suffice for the present. Behold I am Alpha an Omega. Amen".

Counsel for the defendants objects to the introduction in evidence of section 132 from exhibit "A",of defendants exhibits on the ground that it is incompetent,irrelevant and immaterial,and is not proper cross examination,and on the further ground that the same has been offered in connection with the evidence of other witnesses,and therefore is surplusage.

327 Q-Don't this revelation,section132,-reveal a new and everlasting covenant? A-Yes sir.

328 Q-And is that not a covenant you did not have in the old church? A-Yes sir,it was not in the old church,-that is it was not in the old book of Doctrine and Covenants.

329 Q-Did you not have this revelation on plural marriage placed in the book of Doctrine and Covenants here in Utah?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and not cross examination.

A-I don't know.

330 Q-Was that not done,and the old section or revelation on marriage taken out? A-I don't know sir. I don't know when that was done.I don't know anything about when that was done. I never took notice to see when that was done.

331 Q-I am not asking you when it was done,-I asked you if it was not done? A-Well I don't say.

332 Q-Well examine the book and see if that is not the case? A-See what?

333 Q-See if the old revelation is in there?-examine this book defendants Exhibit "A",and see if the old section on marriage is in there? A-refer to the revelation or section on marriage that was in the old book of Doctrine and Covenants published in 1835 is in there? A-It is not here that I can see.

By Mr Hall,-"To save time we will admit that it is not there".

By Mr Hall,-

334 Q-But the revelation on plural marriage,-the so called polygamy revelation is in there is it not? Yes sir,but it is called celestial marriage.

335 Q-Now do you know why the section one hundred

for they are given unto him to multiply and replentish the earth,according to my commandment,and to fulfill the promise which was given by my Father before the foundation of the world;and for their exaltation in the eternal worlds,that they may bear the souls of men;for herein is the work of my Father continued,that he may be glorified.

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331 Q-I am not asking you when it was done,-I asked you if it was not done? A-Well I don't know.say.

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By Mr Hall,-"To save time we will admit that it is not there".

By Mr Hall,-

334 Q-But the revelation on plural marriage,-the so called polygamy revelation is in there is it not? Yes sir,but it is called celestial marriage.

335 Q-Now do you know why the section one hundred

hundred and one in the edition of 1835 of the book of Doctrine and Covenants was taken out? A-No sir.

335 Q-You do not know why that was done? A-No sir I don't know anything about it, for I was not here at the time,and therefore I don't know anything about why it was done.

336 Q-Do you know why section one hundred and thirty two should be put in its place? A-No sir,not of my own knowledge. I have no knowledge of the facts attending that,for I was not here at the time.

337 Q-Don't section one hundred and thirty two give a different rule on marriage from what section one hundred and one in Exhibit "E" does?

Counsel for the defendants objectsto the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial,and not cross examination and calls for an opinion of the witness.

A-I don't know what authority did it,but I suppose it was done by proper authority or it would not have been done at all. They took the one out and placed the other I suppose because they knew of they fact that the revelation on celestial marriage had been given by Joseph Smith before his death.

338 Q-And knowing the fact also that ~~xxx~~ one was in contradiction of the other? A-Well I don't understand it that way. I do not understand the fact to be that they contradict each other, Because there is more in the one than the other.The one is simply more comprehensive than the other,but I do not see that they contradict each other at all.

339 Q-Do you say that the one is not a contradiction of the other? A-No sir,I don't so understand it myself at all. The one is simply an expression of the church more in the nature of a resulution expressing the position of the church,while the other is a revelation which of course has greater authority than the other,but it does not necessarily follow that they are contradictory of each other.

340 Q-Well let me read from section one hundred and one of Exhibit "E" ,-that is the old book of Doctrine and Covenants published in 1835,-"Inasmuch as this Church of Christ has been reproached with the crime of fornication and polygamy,we declare that we believe that one man should have one wife;and one woman but one husband,except in case of death,when either is at liberty to marry again". What do you say to that? A-Well that is correct. That was the position of the church at that time.

341 Q-Well now would that not be a contradiction of the revelation on polygamy? A-Well now sir.I will tell you,and I am very glad you asked me about it. I do not acknowledge that polygamy has anything to do with that revelation on receiving celestial marriage,for polygamy is a principle in which both sexes can indulge,-that is to say that polygamy and celestial marriage are entirely different. It is sealing,-

342 Q-Stop right there?-is that not what Joseph Smith taught you? A-Yes sir.

343 Q-Incorporate in the record as apart of the cross examination of this witness,section one hundred and one of Exhibit "E",being the book of Doctrine and Covenants of the edition of 1835,in addition to the revelation section one hundred and thirty two of defendants exhibits exhibit "A",heretofore offered as ~~apax~~ a part of the

Section one hundred and one of Exhibit "E",offered in evidence in connection with the cross examination of this witness, is in words and figures as follows,-

Section CI
Marriage.

I According to the customs of all civilized nations, marriage is regulated by laws and ceremonies;therefore we believe that all marriages in this church of Christ of Latter Day Saints,should be solemnized in a public meeting,or feast, prepared for that purpose;and that the solemnization should be ~~solemnization should be~~ performed by a presiding high priest,high priest,bishop,elder or priest,not even prohibiting those persons who are desirous to get married,of being ~~ma~~ married by other authority. We believe that it is not right to prohibit members of this church from marrying out of the church,if it be their determination sos to do,but such persons will be considered weak in the faith of our Lord and Saviour,Jesus Christ.

2 Marriage should be celebrated with prayer and thanksgiving;and at the solemnization,the persons to be married, standing together, the man on the right,and the woman on the left,shall be addressed by the person officiating,as he shall be directed by the Holy Spirit;and if there be no legal objections he shall say,calling each by their names,"You both mutually agree to be each others companion,husband and wife, observing the legal right belonging to this condition;that is keeping yourselves wholly for each other,and from all others during your lives". And when they have answered "yes",he shall pronounce them "husband and wife",in the name of the Lord Jesus Christ,and by virtue of the laws of the country and authority vested in him;"may God add his blessings and keep you ~~faithful~~ to fulfill your covenants from hence forth and for ever. Amen".

3 The clerk of every church should keep a record of all marriages,solemnized in his branch.

4 All legal contracts of marriages made before a person is baptized into this church,should be held sacred and fulfilled. In as much as this Church of Christ has been reproached with the crime of fornication and polygamy;we declare that we believe that one man should have one wife,and one woman but one husband,except in case of death,when either is at liberty to marry again. It is not right to persuade a woman to be baptized contrary to the will of her husband,neither is it lawful to influence her to leave her husband. A-- children are bound by law to obey their parents; and to influence them to embrace any religious faith,or be baptized,or leave their parents without their consent,is unlawful and unjust. We believe that all persons who exercise control over their fellow beings,and prevent them from embracing the truth,will have to answer for that sin".

344 Q-Did you ever see any other copy of this paper? A-Never to my knowledge,-only one copy.
(The paper referred to is the Nauvoo Expositor heretofore identified by the witness,and marked exhibit "D",)

345 Q-You saw one copy of it? A-Yes sir I saw it only at Laws house.

346 Q-Was that number two? A-I don't know. I don't know what number it was,but the paper I saw had the affidavits in it.

347 Q-Where did you say you saw it? A-I read it at William Laws house

348 Q-Was there ever more than one copy of this paper with these affidavits in it published? A-I think not sir.I think there was but one number of it published.

349 Q-You do not recollect of seeing any other number? A-No sir,and I am quite sure that there was but one copy of it published,- I think it existence began and onded with the first copy.
350 Q-Was that a regular weekly paper published at Nauvoo,Illinois? A-What?
351 Q-The Nauvoo Expositor? A-Yes sir,that was the intent of it,but I say that I think it was never published but the one week.
352 Q-Is it not a fact that there was never but one paper of it published? A-Yes sir,that is that I say.
353 Q-It was just run off one week? A-Yes sir,I think so.
354 Q-You never saw but volume one,number one of it? A-No sir,I never saw any more than that.
355 Q-That is all. A-Well now I wish to say that I am seventy seven years of age,and I have had a very recent fit of sickness, and recently I have been watching a sick wife to her death bed a week ago yesterday,and I had not much chance for preparation,as I did not know what I came here for exactly..I am ready and willing to answer any question that is put to me and give as truthful an account of everything that I saw or heard as I can.
356 Q-Well I want to ask you another question or two? A-All right sir,I will answer them if I can.
357 Q-How far do you live from Salt Lake City?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is in competent, irrelevant and immeterial,and not proper cross examination.
A-I live in SanPete County at Mt Pleasant,and it is perhaps one hundred and twenty five or thirty miles,or something like that from here.
358 Q-Who wrote to you and asked you to come up here as a witness?
Counsel for the defendants objects to the question asked the witness on the grounds above set forth,and on the ground that the question assumes that the witness was written to appear here, when it does not appear that such is the fact.
A-Well the letter said it was Mr Hall.
359 Q-Who was the letter signed by? A-Mr Hall. I never knew the gentlemen.
360 Q-Who else wrote to you about it? A-Nobody.
361 Q-Did nobody else send you any word about it? A-No sir.
362 Q-Did you know Mr Hall before you received that letter? A-No sir ,-never to my knowledge. I never saw him or knew him to my knowledge before I came up here. He said there was a suit going on here,and there was somebody seeking to establish,-
363 Q-Well I don't care what was in the letter? A-Well it was something like that.
364 Q-Well if you have the letter you can produce it? Have you got the letter? A-No sir I have not.
365 Q-Did the letter say anything about Mr Woodruf? A-No sir,-not a word. Not a word about him. There is nothing in that letter but what I am willing for you to know.
366 Q-Well you were not subpoenaed as a witness? A-No sir. I was invited to come here By Mr Hall.
367 Q-Well,that is all?
Redirect examination By Mr Hall,-
368 Q-You were asked in your cross examination whether Joseph Smith

taught you the principle of celestial marriage? A-Yes sir.
369 Q-You were asked whether he taught you that in contradistinction to the doctrine of polygamy;now I will ask you to state whether or not the doctrine of celestial marriage,or plural marriage as referred to in that question,permitted a man to have more than one wife living at ~~x time~~ the same time?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial, and irrelevant hearsay and leading.
A-Certainly it would.
370 Q-It would? A-Certainly,under the proper conditions and rules in of that law in there. But at that time.-
371 Q-State the time? A-The time it was taught to me in Nauvoo it was not supposed to be practiced as a principle,-that is publicly like our proceedings in the temple for the dead. It was not taught or practiced openly but it was given to me and I understood it as a crude principle that would be fully and openly revealed to the church when the proper time came for it to be revealed.
By Mr Cabell,-
372 Q-And under that principle that was revealed to you a man was allowed to have more wives than one?
Counsel for the plaintiff objects to the question for the reason above set forth,and on the further ground that it is irregular for more than one attorney on behalf of the defendants to examine the witness at the same time.
A-Yes sir,and there were men at that time who told me that they were practicing that principle at the time,and I had reason to believe them,but I was in their houses at the time and never asked the question about it,but that is the way I understood it.
Counsel for the plaintiff objects to the answer of the witness and moves the court to exclude it from the record as hearsay and not responsive to the question asked.
By Mr Kelley,-
373 Q-You yourself,did not have any more wives than one at that time a did you? A-No sir,for I never asked for them,and there was none appointed to me.
374 Q-Well that is all? A-I hope if at any time in the hereafter I meet any of you gentlemen and there is any information that I can give you,that you will call on me for it,for I will be happy to accomodate you with it.
Witness fees $13,00 paid by defendants subject to plaintiffs objection as here-in-before set forth.

[illegible]

[illegible]

[illegible]

[illegible]

563

Samuel W Richards of lawful age, being produced sworn and examined on the part of the defendants, testified as follows,-

Direct examination by Mr Hall,-

I Q-Do you reside in Salt Lake City? A-I do, to the Territory.

2 Q-Have you been a resident of Salt Lake City at the present time? A-I have been since 1847.

3 Q-Where do your loyalties lie? A-Salt Lake City is in Salt Lake County, in the Territory.

4 Q-Have you been living there ever since 1847? A-Yes, I have.

5 Q-Do you know Joseph Smith? A-I do, I knew him.

6 Q-Do you know Hyrum Smith? A-I did.

7 Q-I want you to state if you did not see the persons in question,- [illegible] Q-Did you know Hyrum? A-In the [illegible] Q-Do you know the Smiths,-the brothers of the prophet.

8 Q-Do you know Hyrum? A-I did. I [illegible]

9 Q-Do you know John C. Bennett? A-Until the [illegible]

I0 Q-[illegible] you [illegible] or, while you [illegible] Nauvoo, did you?

Counsel for the plaintiff objects to the question as to the witness on the ground that it is incompetent, irrelevant and immaterial, leading, and hearsay, and there is no issue in this case under which the testimony of witness on that question can be admitted.

II Q-I will ask you to go to the reporter and [illegible] [illegible] that [illegible] [illegible] Smith?

Counsel [illegible] the question on the ground that it is incompetent, [illegible] for he [illegible]

A-I don't recollect [illegible] only from that [illegible] I recollect [illegible]

I2 Q-You [illegible] Smith, [illegible] of our own [illegible]? A-No sir.

I3 Q-Who was the President of the church during the [illegible] Hyrum? A-Joseph Smith.

I4 Q-It is to the reporter what you stated in regard to the [illegible] of baptism for the dead, being [illegible] or [illegible] by the,-in the office where it was [illegible] the time you resided there, and before the death of Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, leading, and hearsay, and there is no issue in this case under which the testimony of witness on that question can be admitted.

A-In answer that question I will say that I was a laborer on the temple that was in process of erection there in Nauvoo for the express purpose of administering baptism for the dead. I labored on it for two,-three years, and assisted in the building of the font in which the baptism for the dead was performed, and I am well aware of the facts, and that I witnessed that it was a doctrine that was adopted and practiced for by the Mormon people, called the "Latter Day Saints", under the direction of the prophet Joseph Smith.

I5 Q-Was that doctrine practiced?

Counsel for the plaintiff objects to the question on the ground that it is leading.

A-What doctrine?

I6 Q-The doctrine of baptism for the dead,-or rather the ordinance of baptism for the dead while you were living there at Nauvoo? A-Yes sir.

I7 Q-Where was it practiced? A-In Nauvoo.

I8 Q-In what place in Nauvoo? A-In the font in the temple

I9 Q-Did you hear anything of John C. Bennett's secret wife system while you were living there at Nauvoo.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and leading and calling for hearsay testimony.

20 Q—I will withdraw that question, and [illegible] if you were acquainted with the paper called the "Times and Seasons" [illegible] Nauvoo Illinois? A—Yes sir.

21 Q—Was that paper published there at the time that you lived there? A—Yes sir.

22 Q—I will ask you to read [illegible] the "Times and Seasons," published October 1st, 1842 in the city of Nauvoo, on page [illegible],—and [illegible] if that is something you can identify [illegible] you have seen, or did read, while living there?

(The book [illegible] is handed witness [illegible] plaintiff's counsel [illegible] the basis of this testimony, when [illegible] as to the contents of the paper known as the "Times and Seasons").

A—Yes sir.

23 Q—What do you say of that? A—I think I have [illegible] I did read it,—yes sir.

24 Q—When did you read it? A—I think I have read that at [illegible] shortly after [illegible]. [illegible] living there [illegible].

25 Q—[illegible] A—"We, the [illegible] of the church of Jesus Christ of Latter Day Saints [illegible] residents of the city of Nauvoo, [illegible] rule or system of marriage [illegible] Doctrine and Covenants, and we give this certificate to show [illegible] "secret wife system" [illegible] creature [illegible] never [illegible]." [illegible] I read that at the time [illegible] publication [illegible].

25 Q—I will ask you to [illegible] if you know [illegible] the [illegible] referred to in [illegible]?

Counsel for the plaintiff objects to the question [illegible] the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial [illegible].

A—I [illegible] it, [illegible] knowledge.

26 Q—[illegible] the system of plural [illegible] about in Nauvoo, Illinois, [illegible] Joseph Smith?

By [illegible],—"We object to [illegible] reason that it is incompetent, [illegible] and the witness [illegible] stated [illegible] not know anything [illegible] only [illegible] hearsay."

A—I [illegible] not [illegible] anything [illegible] Joseph Smith [illegible] in Nauvoo [illegible] others who were his clerks [illegible] secretaries and such like,—I [illegible] conversation [illegible] while I was living there on [illegible].

Counsel for the plaintiff objects to the answer of the witness as hearsay, and moves the court to exclude it from the record for that reason.

27 Q—Are any of the parties that taught you that principle, officials in the church? A—Yes sir.

28 Q—Who was it? A—Particularly [illegible] uncle Willard Richards who was Joseph Smith's private secretary at least [illegible] a part of

that time. He was also one of the twelve and was with him all of the time I might say up to the time of his death, and was with him then also.

29 Q-That was your uncle William Richard? A-Yes sir he was one of the twelve and also acted as his private secretary for a part of the time and was very intimate with Joseph Smith up to the time of his death.

30 Q-I will ask you to state what you were thought of, Mr. Lyman? A-High priest.

31 Q-By William Richards,-what that principle of celestial marriage that you were taught to be?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and hearsay.

A-Well it was the same as it was practically with the revelation that was afterwards published.

32 Q-Afterwards published, did? A-Here in Salt Lake City.

33 Q-I will state if you have any knowledge or information of a revelation on that subject before the death of Joseph Smith? A-Yes sir.

34 Q-What was it?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial, and hearsay, and a cross examination by an adverse witness.

A-I was informed there was a revelation on that subject but as I said before I did not see it.

Counsel for the plaintiff objects to the answer of the witness that it is immaterial, and not responsive to the question, and moves the court to strike it out the record for that reason, and for the additional reason that it is hearsay.

35 Q-Did you be informed by any of the officers of the church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, leading and hearsay.

A-Yes sir, I was informed of it.

36 Q-Before the death of Joseph Smith? A-Yes sir.

37 Q-Is there any difference, or was the difference between the principle of celestial marriage as taught you then, and the John D- Lee's secret sect system, -if you know of any difference, you may state what it was?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading, incompetent, irrelevant and immaterial.

A-The difference in the two is, so far as I understand it, or the understand it, is that Bennett and others have made imply the system of polygamy, and practiced it, to a pretty liberal extent, while the revelation given the principles,-I mean the principles in the revelation given by Joseph Smith and taught by him to the Mormon church to the people at that time, do not embrace the principle of polygamy as it is understood in the usual acceptance of the term, which as I understand it gives a wife the right to several husbands, as it gives the husband the right to several wives. Bennett's system was entirely opposed to the practices of the revelation, which was of the subject of celestial marriage.

38 Q-Did the principle of celestial marriage permit a man to have more than one wife living at the same time?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading, incompetent, irrelevant

and immaterial, and calls for an expression of opinion of the witness.

39 Q-A [illegible] the question please? A-Please repeat that question to me.

40 Q-[illegible] the principle of plural marriages permit a man [illegible] more than one wife living at the same time? A-I [illegible] the old law of Moses did it also, to say nothing about the Mormon revelations.

41 Q-Can you state to the reporter when the Mormons adopted the doctrine of Swedenborg, Doctrine and Covenants [illegible]? A-I can not. ~~[illegible] cultivated~~ *partially* [illegible].

42 Q-[illegible] partially as well as you can [illegible]? A-I [illegible] not state the time positively, but I believe it was [illegible] your [illegible]. I [illegible] in [illegible] in [illegible] in Utah [illegible] world.

43 Q-[illegible] Utah [illegible] in [illegible]? A-Not sir.

44 Q-[illegible] in Utah [illegible] in the world? A-Not sir.

Counsel [illegible] the witness [illegible] incom[illegible].

A-[illegible]

45 Q-[illegible] Counsel [illegible] the witness [illegible] incom[illegible].

A-[illegible]

46 Q-[illegible]

Cross [illegible] Miller.-

47 Q-[illegible] A-The [illegible].

48 Q-[illegible]

49 Q-[illegible]

50 Q-[illegible] at-[illegible] Utah,-[illegible] prior to his death.-

[illegible] A-[illegible]

51 Q-[illegible] built [illegible]? A-[illegible]

52 Q-[illegible] built [illegible]

53 Q-[illegible] A-Yes [illegible].

54 Q-[illegible] A-Yes [illegible].

55 Q-[illegible] to the [illegible]

56 Q-[illegible] A-No sir.

57 Q-[illegible] A-[illegible]

58 Q-[illegible] A-[illegible]

59M Q-[illegible] two [illegible] would not [illegible] A-I don't know. Persons [illegible] you [illegible].

haven't had the time to look up dates. If I had been [illegible] of the fact that I was to be examined about these things I should have made an effort to prepare myself for it.

78 Q-Now is not the section on marriage that was incorporated in the 1835 edition of the Book of Doctrine and Covenants, that you printed,-I mean that was in the 1835 edition and which you re-printed in the 1845 edition that you printed, or the 1845 edition [illegible] it, -[illegible] it until the first edition [illegible] -[illegible]

79 Q-[illegible] section on marriage that appears in the 1845 edition of the Book of Doctrine and Covenants, [illegible] in the edition that [illegible] in 1845, or, did it not [illegible] the publication of the edition of 1845 [illegible] published by the church [illegible]?

80 Q-[illegible]?

81 Q-[illegible]? A-I have [illegible]

82 Q-[illegible] A-[illegible] not [illegible]

83 Q-[illegible] A-[illegible]

84 Q-[illegible]

Re-[illegible]

85 Q-[illegible]

Counsel [illegible] objects to the question [illegible] it is not [illegible].

A-[illegible]

86 Q-[illegible]

Counsel [illegible] objects to the question [illegible] the wording of the [illegible] for the record, that it is incompetent, irrelevant and immaterial, and not proper [illegible]

A-[illegible]

87 Q-[illegible]?

A-[illegible]

88 Q-[illegible]

Counsel [illegible] objects to the question [illegible]

A-[illegible]

89 Q-[illegible]?

Counsel [illegible] objects to the question [illegible] the wording of the [illegible] for the record, that it is incompetent, irrelevant and immaterial, and not proper [illegible]

90 A-I will ask you another question which is not [illegible] Joseph, and I [illegible] it [illegible] of [illegible] from which I over-looked? I will [illegible] if you have ever [illegible] any of the council in [illegible] of the [illegible] Smith?

100 Q-Now I will ask you if there was any other system of [illegible] known to the church at that time, to your recollection, as is stated in that article? A-No sir.

101 Q-There was not? A-No sir.

102 Q-[illegible] mean by that answer,-please explain [illegible]? A-I mean that there was no other system of [illegible] known to the church? At that time it had not [illegible] the full [illegible] practice of the church as I [illegible].

103 Q-That is all [illegible]? A-I mean that it had not [illegible] to the church at that time?

By [illegible].-

104 Q-I will ask you to state if there was any system of [illegible] practice [illegible] of the church at that time?

Counsel [illegible] objected to the question [illegible] the witness [illegible] it is not [illegible] direct examination [illegible] not material [illegible].

105 Q-[illegible] A-[illegible] there any [illegible] of [illegible] by the church at that time?

106 Q-[illegible]? A-Yes [illegible].

107 Q-[illegible] that time?

Counsel [illegible] objected to the question asked the witness [illegible] the ground [illegible].

108 Q-[illegible] or about [illegible].- [illegible] I [illegible] [illegible] the [illegible] of [illegible] practice [illegible].

109 Q-[illegible] you [illegible] to the [illegible]?

Counsel [illegible] objects to the question asked the witness [illegible] further [illegible] on the ground [illegible] question [illegible] as a test to [illegible] A-[illegible] before.

Q-[illegible] correctly [illegible] record [illegible].

110 Q-[illegible] plurality [illegible]?

Counsel [illegible] objected to the question asked the witness [illegible] above set forth, [illegible] the additional [illegible] question [illegible].

A-[illegible].

111 Q-[illegible] system [illegible] [illegible] [illegible] established [illegible] [illegible] of doctrine [illegible] government?

Counsel [illegible] objected to the question asked the witness [illegible] all the reasons above set forth.

A-[illegible] [illegible].

112 Q-[illegible] 112

By [illegible].-

113 Q-[illegible] time you were there in [illegible] 1942 [illegible] to look at the time of the [illegible] there was no other system of [illegible] to the doctrine and practices by the church, [illegible] in reference to [illegible].

A-Yes sir. For a system of plural [illegible] practice [illegible] the church at [illegible]. The system of [illegible] only practice [illegible] a very [illegible] of the church at that time [illegible] only [illegible] of the leading [illegible] of the church, and it did not at [illegible] come.

By Mr Hall.-

147 Q-"Well we want to see if it is in there, but if you will admit that it is not in there [illegible]".

By Mr Bailey.-"Of course we will admit it is not in [illegible] [illegible] claim that it was in there."

By Mr Hall.-

148 Q-[illegible] ask you if you were or are familiar with [illegible] on [illegible] River in 18[illegible]?

Counsel for the plaintiff objects to the question [illegible] the [illegible] on the [illegible] that it is irrelevant [illegible].

A-[illegible] I could [illegible] ([illegible]).

By [illegible].-[illegible].

By [illegible].-"[illegible] red [illegible] is not in [illegible]?"

By [illegible].-"[illegible] our [illegible] cont- [illegible]."

By [illegible].-"[illegible],
[illegible] record?"

By [illegible].-"[illegible] dis- [illegible] ,-[illegible] we [illegible]."

By [illegible].-

149 Q-[illegible] in [illegible]?

Counsel [illegible] the [illegible] incompetent, [illegible], and not proper re-direct [illegible].

A-[illegible].

By [illegible].-

150 Q-[illegible] records [illegible] does [illegible] south [illegible].

151 Q-[illegible]? A-[illegible] documents [illegible].

152 Q-[illegible]

153 Q-[illegible] from the [illegible] of [illegible].

154 Q-[illegible], the book of Com- [illegible] Government? A-Yes.

155 Q-[illegible] cross-examination [illegible] If [illegible] not to be [illegible]?

[illegible] revelation that was not to be ~~[illegible]~~ revealed to the [illegible]

I56 Q-[illegible]

I57 Q-[illegible]

I58 A-[illegible]

I59 Q-[illegible]

Counsel [illegible] tins wi[illegible] for [illegible]

A-[illegible]

I60 Q-[illegible]

I61 Q-[illegible]

I62 Q-[illegible]

I63 Q-[illegible]

I64 Q-[illegible]

I65 Q-[illegible]

I66 Q-[illegible]

I67 Q-[illegible]

finding-[illegible]

I68 Q-[illegible]

I69 Well as a fact it could not be binding upon any body until they had submitted to it [illegible] by excepting, it [illegible] matter xx xxx of fact it could not be a law that any one could legally act upon or under until it [illegible] acted upon by the church and accepted, no matter what any one's individual opinion may have been [illegible] it could not be binding upon the church or [illegible] of action to the church until it was [illegible].

By [illegible].-

I70 Q-[illegible] you [illegible] if any could [illegible] again a [illegible] [illegible] revelation?
[illegible]

I7I Q-[illegible] any one [illegible] in a [illegible] [illegible] revelation?

Counsel [illegible] object to the question [illegible] the [illegible] for the reason that it is [illegible], [illegible] material, not [illegible] examination, and [illegible] calls for an opinion of the witness.

I72 Q-[illegible] revelation [illegible] binding [illegible] not [illegible] it? A-[illegible] it might be possible, for it [illegible] not [illegible] individual [illegible] it [illegible] particularly [illegible] it.

I73 Q-[illegible] of the church [illegible] particularly [illegible] of the [illegible]?

Counsel for [illegible] object to the question [illegible] the witness [illegible] the [illegible] it calls for an opinion of the witness.
A-[illegible], -[illegible] revelation [illegible] binding [illegible] individual in the [illegible]. That is [illegible] evident [illegible].

By [illegible].-

I74 Q-[illegible] of the church [illegible] revelation, or [illegible] the church [illegible] rules [illegible]? A-Well sir [illegible] explanation to [illegible] it. [illegible] revelations [illegible] particularly to the [illegible] OES xx xxxxxxxx; [illegible] special persons in [illegible] of [illegible] only upon those persons.

I75 Q-[illegible] revelation,-well [illegible] revelation as that [illegible] law? A-[illegible] rules.

I76 Q-[illegible] all. A-[illegible] be accepted by common [illegible].

By [illegible].-

I77 Q-[illegible] would [illegible] the acceptance [illegible] revelation?

Counsel for [illegible] objects to the question on the grounds [illegible] for the reasons that it is incompetent, irrelevant [illegible] material, and calls solely for an expression [illegible] of the witness.
A-I [illegible] ly [illegible] that so far as I [illegible] personally [illegible] I could not answer it for any body else.

I78 Q-[illegible] answer it as [illegible] you can?

Counsel [illegible] objects to the question for the reason [illegible] given.

179 Q-Answer as far as you can? A-What was the question?
180 Q-I asked you to state what you would consider would be the acceptance of a revelation? A-By the church?
181 Q-No sir? By your self individually.
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons above set forth.
A-An acknowledgement and acting upon it.
182 Q-That is all?
Witness fess for the foregoing witness amounting to $1,50, and the sum of $8,00 for the room in the Templeton Hotel in which those depositions have been taken,being at the rate of ~~one dollar~~ $1,00 per diem for eight days that the room has been occupied,-all paid by the defendants,subject to the plaintiff's objection as here-in-before set forth.

By consent of the parties hereto,both plaintiff and defendant,entered into ~~in~~ my presence,it was agreed that the deposition of Jason W. Briggs might be taken in the city of Denver,in the state of Colorado,at the St James Hotel, on Wednesday the 8th day of June 1892,and that the same might be taken by JOhn M. Orr the Notary who took the depositions of the various witnessess in Jackson County, Missouri,and the examiner appointed by the court in which this cause is pending,to take the testimony of sundry witnesses in the Territory of Utah,and that the formal official character of the party taking the deposition of said Jason W. Briggs and his signature to his said deposition should,and the same was waived,-provided only that the said witness Jason W Briggs should be sworn by an officer in the City of Denver,authorized to administer oaths in that City, In pursuance of the foregoing agreement the parties hereto appeared at the St James Hotel in the City of Denver in the state of Colorado on Wednesday the 8th day of June 1892 the plaintiff being represented by E.L. Kelley,and the defendants by C.A. Hall,and the said witness Jason W. Briggs being duly sworn be Willis F Wolff,a Notary Public in and for Arraphoe County in the State of Colorado,testified as follows,-
Direct examination by Mr Hall,-
1 Q-Where do you live Mr Briggs? A-~~In Denver~~ Well I live in the town of Harris in Arrapahoe County,-in this county,in the state of Colorado.
2 Q-What state did you say that was in? A-In Colorado
3 Q-Where did you live before coming here to Colorado? A-Last before coming here I lived in Pottowatamie County Iowa.
4 Q-At what time,or about what time did you live there? A-Do you want the time that I lived there?
5- Q-Yes sir,about what time did you live there? A-Well it is two years since I left there,and that would make it in '89 that I lived there,but I lived several years before that. My family however,left there before that time,-they came out here before I did.
6 Q-Where did you live before you lived ~~there~~ in Iowa? A-In Wisconsin.
7 Q-Where did you live in Wisconsin? A-Well I lived in a number of places. The last place before leaving there was in Lafayette.
8 Q-What time was that? A-Well that was in in 1859 that I left Wisconsin.
9 Q-Where did you live previous to that? A-I left there in '59,-that is I left Lafayette,and next previous to that I lived in Green County,and next previous to that I lived in Rock County at Beloit in Rock County.

I79 Q-Answer as far as you can? A-What was the question?
I80 Q-I asked you to state what you would consider would be the acceptance of a revelation? A-By the church?
I8I Q-No sir? By your self individually.
Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons above set forth.
A-An acknowledgement and acting upon it.
I82 Q-That is all?
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in which those depositions have been taken,being at the rate of ~~one dollar~~ $I,00 per diem for eight days that the room has been occupied,-all paid by the defendants,subject to the plaintiff's objection as here-in-before set forth.

By consent of the parties hereto,both plaintiff and defendant,entered into ~~in~~ my presence,it was agreed that the deposition of Jason W. Briggs might be taken in the city of Denver,in the state of Colorado,at the St James Hotel, on Wednesday the 8th day of June I892,and that the same might be taken by JOhn M. Orr the Notary who took the depositions of the various witnessess in Jackson County, Missouri,and the examiner appointed by the court in which this cause is pending,to take the testimony of sundry witnesses in the Territory of Utah,and that the formal official character of the party taking the deposition of said Jason W. Briggs and his signature to his said deposition should,and the same was waived,-provided only that the said witness Jason W Briggs should be sworn by an officer in the City of Denver,authorized to administer oaths in that City, In pursuance of the foregoing agreement the parties hereto appearod at the St James Hotel in the City of Denver in the state of Colorado on Wednes-

day the 8th day of June I892 the plaintiff being represented by E.L. Kelley,and the defendants by C.A. Hall,and the said witness Jason W. Briggs being duly sworn be Willis F Wolff,a Notary Public in and for Arraphoe County in the State of Colorado,testified as follows,-
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6 Q-Where did you live before you lived ~~there~~ in Iowa?
A-In Wisconsin.
7 Q-Where did you live in Wisconsin? A-Well I lived in a number of places. The last place before leaving there was in Lafayette.
8 Q-What time was that? A-Well that was in in I859 that I left Wisconsin.
9 Q-Where did you live previous to that? A-I left there in '59,-that is I left Lafayotte,and next previous to that I lived in Green County,and next

previous to that I lived in Rock County at Beloit in Rock County.

10 Q-At Beloit,Wisconsin? A-Yes sir,in Rock County.

11 Q-Between what years did you live at Beloit,Wisconsin
A-What is that. I don't hear very well.

12 Q-I asked you between what years you lived at Beloit, Wisconsin? A-Well I lived there from '42 until '54 principally. I was away a part of the time,-during a part of two years I will say,but I was only transient -ly away.

13 Q,-Were you a member of any church while you were living at Beloit,Wisconsin?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and not pertinent to any of the issued involved in this case.
A-Well I have no objection to-answering the question

14 Q-Well answer the question. You need pay no attention to their objections,as they are only exercising their legal right to make formal objections to the questions I ask,and that need not effect your answer any more than if the objection had not been made at all.
A-Yes sir I was a member of a church.

15 Q-Wh at church were you a member of during that time?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A-Well I was a member of the church of Latter Day Saints,when I went to that region of country.

16 Q-When you went there? A-Yes sir,when I went there.

17 Q-Was that the full name of the chutch that you were a member of at that time? A-No sir.

18 Q-Well you may give to the reporter its full name or title? A-It was the church of Jesus Christ of Latter Day Saints.

19 Q-When did you first become a member of that church'
A-In June 1841.

20 Q-What year was you born in? A-Well my age would be seventy two the last day of this month according to the record. The family record says that I will be seventy two-the last day of this month and that would make it 1820 that I was born in.

21 Q-Then at the time you joined the church you were about twenty one years old? A-Yes sir. I lacked a few days of being twenty one.

22 Q-Did you hold any office in the church of Jesus Christ of Latter Day Saints? A-
Counsel for the plaintiff objects to the question asked the witness for the reason and on the ground that it is irrelevant and immeterial.
A-At that time do you mean?

23 Q-At that time or any other time I mean? A-Yes sir-
I most assuredly did.

24 Q-What was the office and when were you ordained, if at all? A-I was ordained an elder in 1842.

25 Q-Were you at all familiar with the doctrines of the church in 1842 at the time you were ordained an elder
A-Well yes I may say I was,to a limited extent, I was trying to make myself acquainted with them as opportunity offered of course.

26 Q-Will you state what the leading doctrines of the church were at that time?
Counsel for the plaintiff objects to-the question asked the witness on the groun and for the reason that it is incompetent,irrelevant and immeterial,

and the new witness"has not shown himself ~~xxxxxxxx~~ to ~~xxxx~~ be competent to testify as to what the doctrines of the church were at an early date".

27 Q-Well now you may answer the question? A-Well so far as I am able to state it was,-what I was called on to preach,and what I knew at thettime,was what were called first principles,-faith and repentance,and baptism for the remission of sins,the laying on of hands for the gift of the Holy Ghost, ~~xx~~ or for the gift of the Spitit and so forth. That was what we called the first principles of the doctrine,and that is what I taught at first.

28 Q-State,if you can,any other doctrines that were believed in by the Church of Jesus Christ of Latter Day Saints at that time,-that is from 1842 up to the time of the death of Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.

29 Q-From the time that you joined the church in June 1842,state any other doctrines other than those you have enumerated that were taught and believed by the church from that time down to June 27th 1844?

Counsel for the plaintiff objects to the question for the reasons above set forth.

A-Well I don't know that I really ~~xxxxx~~ comprehend the scope of that question. Of course there was other doctrines,and a great many of them taught aside from the first principles,-such as the gathering together and building up of cities,and temples and so on.

30 Q-Well state any other doctrines that you can remember,that were taught? A-Well as I say I don't understand the reah sense of that question ~~xxx~~ but of course there was a great many things taught as a matter of faith,-such as the re-gathering of the Jews and the re-building of the temple at Jerusalem,and ~~x~~ the second coming of Christ,and the coming of the Gods,and all that.

31 Q-Well I only want to get at the doctrines that you understand were taught by the authority of the church? A-Well these were taught that I mentioned.

32 Q-Well was there any other ~~x~~ doctrines taught? A-Well I don't know but there may have been.

33 Q-You mentioned baptism? A-Yes sir.

34 Q-The doctrines of baptism? A-Yes sir.

35 Q-Well what doctrines was that? A-It was the doctrine of baptism for the remission of sins.

36 Q-Was baptism-taught for any other purpose? A-What?

37 Q-Was baptism taught for any other purpose other than for the remission of sins? A-Well yes sir,there was baptism for the dead taught,and for the health.

38 Q-Did you ever visit Nauvoo,Illinois,and if so,when? A-Yes sir I visited Nauvoo in 1843.

39 Q-State if you can what doctrines you heard taught or talked about as being taught in the church there at the time of your visit to Nauvoo in 1843?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and for the further reason that the question is not confined to the class of persons that witness heard teach it or any other doctrine,and calls for hearsay testimony.

40 Q-I meant to say,-was taught by the church of persons in authority in the church? A-~~xxx xxx~~ I heard nothing different in any public

teaching from what I have stated while in Nauvoo,-that is I heard nothing different from what I have already stated as being the public teachings of the church and its doctrine.

41 Q-While you were there at Nauvoo,or did you at any other time or place see the ordinance ~~for~~ of baptism for the dead administered or performed,and if so, state the facts in relation to whether or not you over saw the ordinance of baptism for the dead performedYin the church?

xxxx

Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading and immeterial.

** ** A-Yes sir I saw it performed.

42 Q-Where? A-There in Nauvoo.

43 Q-What books,if any,were the standard books of the Church of Jesus Christ of Latter Day Saints,from the time you became a member of that church in June 1842 up to June 27th 1844? A-Well I supposed,-I always understood that the books were the bible,the book of Mormon and the book of Doctrine and Covenants. These were the standard books of authority during that time

44 Q-What do you mean when you speak of the bible? A-Well I mean the common bible,-the King James translation,-that Is what I mean when I speak of the bible

45 Q-What book of Doctrine and Covenants do you mean when you speak of the book of Doctrine and Covenants? A-Well the first book of doctrine and Covenants that I ever saw,was I think the edition of 1835.

46 Q-What officers,if any,was there in the Church of Jesus Christ of Latter Day Saints,if any,during the time referred to? A-What time.

47 Q-The period of time referred to is the time between the date of your joining the church in June 1842 and the 27th of June 1844? A-Well now I don't understand that question. What you mean by that question I do not understand.

48 Q-Well state the different offices that were in the church? A-In the old church?

49 Q-I mean in the church of Jesus Christ of Latter Day Saints as it was organized at that time? A-Well it was understood that there was the prophet and his counsellors,constituting the first presidency;that is the first presidency of the church,-the apostles, high priests,seventies,elders,priests,teachers and deacons.

50 Q-Was there any other officers? A-The Bishop and patriarch.

51 Q-Did they have clerks or recorders ? A-Yes sir,they they had clerks and recorders.

52 Q-State what part,if any,you took in the work of the church while you were living at Beloit,Wisconsin as an elder? You stated you were an elder did you not?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is immeterial and irrele-vant and leading.

Q-I preached,baptized,confirmed,and laid on hands on the sick,etc.

53 Q-What was the result of your labors in that direction?

Counsel for the plaintiff objects to the question asked the witness for the reasons above given.

A-There was a branch raised up there partly through my efforts.

54 Q-There was a branch of what raised up there? A-There was a branch of the church established there

55 Q-When was that? A-Well it was in '42 and '3. I am not anle to say-whether it was organized in '42 or whether it was in the beginning of 1843.

56 Q-A branch of what church? A-A branch of the church of Jesus Christ of Latter Day Saints.

57 Q-And you cannot tell whether that branch you speak of as the one you organized there, was organized in '42 or the beginning of '43? A-No sir.

58 Q-Where was that church located, or where was its headquarters? A-~~It was at Beloit, in the town of Beloit in Wisconsin~~ At Nauvoo.

59 Q-No, I mean where was the ~~church~~ branch located, or where was its headquarters? A-It was at Beloit, in the town of Beloit in Wisconsin.

60 Q-And where was the chief headquarters of the church? A-Do you mean the whole church?

61 Q-Yes sir? A-It was in Nauvoo.

62 Q-Was the whole church at Nauvoo? A-Well it certainly was.

63 Q-Or was it simply the headquarters of the church? A-Well that is what I understood you to say. The headquarters were at Nauvoo because that was where the chief officers the principal officers of the church were located. The chief officers of the whole church were at Nauvoo, and that was its headquarters,

64 Q-~~How~~ How long did that branch that you raised up there, remain in followship with the church at Nauvoo?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immeterial.

65 Q-If it ever was in fellotship with the church at Nauvoo, how long did it so remain? A-Well we took exception to the rule of Brigham Young and his quorum of the church, and we cut loose from them. That was not done right away, but it was in a few years, a year or two, and then we ceased to be in followship with the church as led by Brigham Young and his co-adjujtors.

66 Q-At what time was that? ~~A-Well it was~~ about what time? A-That we ceased to act in followship with them?

67 Q-Yes sir? A-Well it was in, -it probably was in '46, -1845 or '46, -some where along there.

68 Q-What office, if any did you hold in the Beloit church? A-Well I was an elder when I went there, and after the branch was organized I was chosen presiding elder. That is I was chosen presiding elder in the church.

69 Q-About how many members was there in the branch there at Beloit at the time you became separated from the church at Nauvoo, some time in 1845 or '46? A-Well perhaps there was twenty five, more or less. I should judge about that number.

70 Q-About twenty?five? A-Yes sir.

71 Q-Did the branch as a body separate from that church at Nauvoo? A-Yes sir, as a body it did.

72 Q-How you said you were the presiding elder in that branch there at Nauvoo? A-Yes sir.

73 Q-Was there any other office in the branch besides the office that you held? A-Yes sir. I think there was teachers perhaps. A priest,-

74 Q-After you seperated from the church at Nauvoo, led by Brigham Young and the Twelve, what part or faction did you become associated with, or followship with after that?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is immeterial and leading.

A-Well with, -we accepted the leadership of James J, Strang.

75 Q-About what time was that? A-Well I think it was in '46.

76 Q-You accepted the leadership of James J. Strang after you cut loose from the church at Nauvoo that was under the leadership of Brugham Young? A-Yes sir

77 Q-How long did you remain in fellowship with James J. Strang? A-Well I don't know just how long.

78 Q-Well about how long? A-Well nominally until about 1850,-In 1850 I think it was.

79 Q-From about 1846 to 1850 you remained in followship with James J- Strang's faction or branch of the church,-you and the branch at Beloit,Wisconsin,of which you were the presiding elder? A-Yes sir,along about that time.

80 Q-Was there any growth xx in the branch of the church there at Beloit xx xhx ximx during that time,-that is was there any new members brought in? A-Yes sir

81 Q-How many xxx new members was there came into the branch during that time? A-I can't say,but there was a few.

82 Q-Who was the President of the branch during that time? A-I was.

83 Q-That is you mean to say you presided over it? A-Yes sir.

84 Q-And you say you nominally remained in followship with Strang until 1850? A-Yes sir,nominally,but we were more or less dis-satisfied before that with the condition of affairs,but did not take steps to leave it entirely until about 1850.

85 Q-And then you did leave Strang entirely? A-Yes sir

86 Q-Can you state positively the date that you did that A-I cannot do so for the reason that I cannot remember,but I did it some time in 1850 or about that time

87 Q-About how many members were added to the church during the time that you were associated with Strang? A-It was before '50 that we left the Strang faction. It was in the latter part of '49 that we cut loose from Strang.

88 Q-Well about how many members were added to the church or the branch that you were identified with during the time that you were associated with Strang A-I really cannot say,for during that time,I myself, with my family moved up to Voreexx,and the branch was substantially broken up,but my memory is that there was a few baptized during that time but it does not serve me to statew how many there was.

89 Q-State how many of the branch made this change in 1846 and accepted James J. Strang as the leader of the church? A-The branch at Beloit?

90 Q-Yes sir? A-So far as my memory goes they all accep-ted him. They all accepted James J Strang as the leader of the church. I do not remember of a single exception,-still there might have been.

91 Q-State your reasons for leaving Strang?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immeterial.
A-Well my reasons for leaving him was because I saw something better in the matter of faith and leadership,etc.

92 Q-State whether or not there was something in the doctrine taught by Strang which caused you to leave?
Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.
A-There was.

93 Q-What were those doctrines?
Counsel for the plaintiff objects to the question asked the witness on the ground andfor the reason that it is incompetent,irrelevant and immeterial,and the witness has not shown himself to be competent to testify.
A-Well some of them were plurality of wives,and there was some orher things too that we considered objectionable.
94 Q-After you left Strang,state what church-or body, or faction,if any,you became associated with?
Counsel for the plaintiff objects to the question for the reasons above given.
A-We became associated with,-that is myself and most of the branch there at Beloit,became associated with William Smith's organization
95 Q-What William Smith was that? A-Well it was William Smith,the brother of Joseph Spith,Junior,the prophet, -known now as William B. Smith.
96 Q-You became associated with him? A-Yes sir,with the faction that acknowledged him as its leader.
97 Q-In what way did you become associated with him?
Counsel for the plaintiff objects to-the question asked the witness on the ground that it is immeterial.
A-With William Smith?
98 Q-Yes sir? A-Well I I do not understand the question
99 Q-In what position?
Counsel for the plaintiff objects to the question as above and on the further ground that it is leading.
A-Well in the first place as guardian ~~xx~~ of the seed of Joseph Smith,-as presiding authority until the seed of Joseph Smith should claim that right and priority which belonged to them. Now that is a full answer to the question I believe.
100 Q-William Smith claimed that right? A-Yes sir.
101 Q-Did William Smith teach it in that light? A-Yes sir,he did at the beginning.
102 Q-Did he continue to teachit in that light?
Counsel for the plaintiff objects to the question asked the witness for the reason that it is irrelevant and immeterial and-as leading.
A-He did not.
103 Q-He did not continue to teach that? A-No sir.
104 Q-Well what did he teach finally?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is immeterial and irrelevant,and"has absolutely nothing to do with the issues in this case".

A-I don't understand.,-
105 Q-What did he finally teach in regard to the Presidency?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A-He subsequently claimed it as his own by right
106 Q-How long did you remain in fellowship with William Smith?
Counsel for the plaintiff objects to the question asked the witnesson the ground that it is irrelevant,immeterial, and on the ground that it is leading.
A-I think I made a mistake there that I wish to correct. This question brings it to my mind that it was in '50 instead of '49 that the final breaking off with Strang took place. ** It should be '50 instead of '49.

I07 Q-Well that is not a very serious error for you said, as I understood you,that it was about '50 that it took place? A-Well I want to be as exact as possible in this,and when you speak about William Smith and his church it brings it to my mind that it was in the last days of I850 that I left Strang,and about the the first days of '5I,or rather the last days of '50 ,that this acceptance of William Smith took palce. It was in December I850 I am pretty positive.

I08 Q-Then how long did you continue with him? A-With William Smith?

I09 Q-Yes sir? A-Well I continued with him until the next fall,-that would be the fall of '5I. I was with him a little less than a year.

II0 Q-State what your reasons were,if there were any at all,for your not continuing with him any longer?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetant,irrelevant and xxxxxrixl leading.

A-Well the reasons were the same,-they were very similiar to a great extent,to the reasons that caused us to leave Strang. They were very similiar to the reasons that caused us to reject Strang. I got to believe,and the branch there got to believe that he taught error,-that he taught false doctrines that we could not accept.

III Q-State what false doctrine it was that he taught xx that you could not accept?

Counsel for the plaintiff objects to the question asked the witness on the ground,and for the reasons above set forth,and because it is leading.

A-Well it was the old story,-plurality of wives was one thing,and perhaps the main thing,and in addition to that as I have before stated,he claimed subsequent to my first acquaintance with him,that it was his right to preside over the church. It was by his by right he claimed,instead of his standing as a guardian or representative of the rightful heir. He claimed that publicly as his right,and when he did so we refused to accept it.

II2 Q-You said that one of the false doctrines was that of plurality of wives? A-Yes sir.

II3 Q-Or polygamy? A-Yes sir,that was one of the doctrines that we considered false and refused to accept.

II4 Q-State the circumstances,if you can,by which you became acquainted with the fact that he was teaching that doctrine.?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading,and incompetent,and irrelevant"to any of the issues in this case".

A-Well the circumstances were simply these;-His counsellor first breached the matter to me. He talked it first in a round about way and then directly,and finally William Smith claimed to have received a revelation authorizing the practice of having plurality of wives,and he taught it,and that was the way I became acquainted with the teaching of it sir.

II5 Q-Did you ever see the revelationxx,or hear it read?

A-Yes sir I saw it and heard it read.

II6 Q-State where and when you saw it and heard it read

Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth in the last proceeding ob jection.

A-What is the question.

II7 Q-I asked you to state when and where you saw that revelation and read it?

A-It was in Lee County,Illinois, in the autumn of 1851,-in October I think. Yes sir it was in October 1851 in Lee County,Illinois.

118 Q-Can you state some of the parties that were present at that time? Well wait a ~~xxx~~ little,-I will ask you first under what circumstances did you see it? A-In what way do you mean?

119 Q-Well that is what I want to get at,-was it at a public meeting or privately?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is irrelevant and immaterial and leading..

A-It was a meeting.

120 Q-What kind of a meeting? A-Well it was called a "Priesthood Lodge".

121 Q-Did you ever hear that revelation read or presented to any more than one of these meetings?

Counsel for the plaintiff objects to the question ~~asked~~ for the reasons above set forth.

A-Yes sir.

122 Q-How many times did you hear it? A-I heard it twice

123 Q-Now you may state if you can,who was present at either one of these meetings? A-Who were present at those meetings,-is that what you asked for?

124 Q-Yes sir,to state if you can any one that was present at either of these meetings,-men who are living to day if possible? If you can state any one that was present at either of these meetings and who is living to day,you may do so? A-I do not now remember but there persons aside from myself that are now living that were in that meeting,-in either of these meetings,-They are C.F.Stiles, E.R. Briggs and William Blair.

125 Q-You say that William Blair was there? A-Yes sir.

126 Q-Who is this William Blair that you refer to? A-"W. Blair of the re-organized church"

127 Q-And who is at the present time one of the counsellors to Joseph Smith the President of the Reorganized church? A-Yes sir. The same man.

128 Q-Can you state where C.F. Stiles lives at the present time? A-Yes sir,he lives in Oregon.

129 Q-And can you state where E.R Briggs lives? A-Yes sir,he lives in Nebraska City,Nebraska.

130 Q-I will ask you to state whether or not William Smith,himself was personally present? A-Yes sir of course he was there,and Joseph ~~Smith~~ his counsellor ~~x~~ was his spokesman,he was also present and he was the one that read it to the meeting.

131 Q-How did you have a record of the Beloit branch? A-We did have. Yes sir,we certainly had a record of the branch.

132 Q-Can you state what became of that record?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial.

A-I think I have it,and yet I cannot be positive. My books and papers have been scattered so much in my travels that it is difficult for me to state what has become of it,but I think it is likely that I have it yet.

133 Q-You did have it one time? A-Yes sir I know I had it not many years ago.

Counsel for the plaintiff moves the court to exclude from the record all of the evidence of this witness with reference to the membership of the Beloit branch, for the reason that it appears from the testimony of the witness that there is better evidence in the possession of the witness and within the reach of the partied taking his deposition therefore the evidence of the witness is incompetent".

I34 Q-Did you ever report to James J. Strang when you were associated with him? A-Report in what way?

I35 Q-Did you ever report to him as a branch of the church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and leading.

A-Well yes sir I presume that I did. I presume so sir, but still I do not remember of making a report to him either personally or any other way, but I presume in accordance with the custom in these matters that it was done.

Counsel for the plaintiff objects to the answer of the witness and moves the court to strike it from the record for the reason that it is immaterial and not the best evidence.

I36 Q-Who was the President of the branch during this time that you were connected with William Smith.

I37 A-I was.

I37 Q-How long did you continue to be the President of that branch? A-Well I don't know that I understand what you mean,-

I38 Q-Well I mean how long did you remain the President of that branch? A-As long as there was a branch.

I39 Q-State as near as you can,-? A-I don't remember of their being any presiding Elder there after that. There was not any that I now remember of.

I40 Q-You were the first and last presiding elder of that branch?

A-Yes sir, that is my memory now, that there was none before me or after me. I know there was none before for I organized it, and I think there was none came after me.

I4I Q-Well, what movement, if any, did you make after you became separated from William Smith? A-We called a conference to meet in the June following this time that I cut loose from William Smith which was I think in November 1851,-which would be in 1852, and at that conference the ground was taken that the proper authority in the church,-The deserving authority in the church was or were the sons of Joseph Smith. That was the action in that respect that the conference took,-for it decided that the proper and deserving authority in the church were the sons of Joseph Smith

I42 Q-Who took part in that conference if you can remember? A-Who took part in it as members of it?

I43 Q-Yes sir,-state their names if you can remember them,-State the names of the parties as well as you can remember who took part in that conference?

A-Well I can remember some of them and there were some there that I cannot remember.

I44 Q-Well state the names of those that you can remember

A-There was Samuel Powers, and there was also Zenas H. Hurley, and Albert White, S-H- Briggs, John Harrington, David Powell, and a good many others whose names I cannot now recall.

I45 Q-Did any other branch besides the Beloit branch participate in that conference? A-Do you mean was there any other branch represented there?

I46 Q-Yes sir? A-Yes sir.
I47 Q-Then there was other branches represented there as well as the Beloit branch? A-Certainly there was.
I48 Q-Well state what branches were represented there? A-There was the Waukeshaw branch,it was led by White, -the Yellowstone branch that was represented by Zenas H Curley.-
I49 Q-State whether or not you were,or are acquaited with the history of the Waukeshaw branch?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial.
A-Yes sir.
I50 Q-State your means of information in regard to that branch? A-I raised up that branch,consequently I am familier with its history. I am acquainted with its first early history.
I51 Q-When was that branch organized? A-It was in 1842 or '43.
I52 Q-Did this,-state whether or not this branch,-the Waukeshaw branch',followed any of the leaders in the church like James J Strang or William Smith?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial.
A-It followed both of them to some extent.
~~I53 Q-State whether or not you were acquainted with the history of the Zerah Hemlah branch? A-Yes for the Zerah Hemlah branch~~
XXX

I53 Q-State whether or not you were acquainted with the history of the Zerah Hemla branch? A-Yes sir for the Zarah Hemlah branch was the Yellowstone branch that I gave mentioned. It was called both names,- "Zerah Hemlah",and Yellowstone". It was called by both names.
I54 Q-State if you know,under what authority that church or branch was built up? A-The Yellow stone branch?
I55 Q-Yes sir"? A-Under what authority it was built up?
I56 Q-Yes sir,or under what organization? A-Well I have always understood that it was,-
By Mr Kelley,-"Just state what you know,and not what you have understood".
A-Well I don't know"
By Mr Hall,-

I57 Q-Well answer the question to the best of your knowledge? A-I don't know of my own knowledge.
I58 Q-Well answer according to the best knowledge you have,under what authority that church was built up? A-Well Zenas H. Curley informed that he,-
By Mr Kelley,-"Well what he informed you is hear say,and I object to it for that reason. State what you know that is competent,but what he told you is hearsay."
A-Shall I answer it?
By Mr Hall-,
I59 Q-Go right ahead and answer it in your own way? A-Zenas H Curley informed me that he and H Brown raised it up as the Yellow stone branch.
Counsel for the plaintiff objects to the ~~question asked~~ XXXXXXXXXXXXXXXX answer of the witness ,and moves the court to exclude it from the ~~x~~ record as hearsay and incompetent,
I60 Q-While you were associated with James J Strang,state whether or not you were acquainted with this man you have named,-Zenas H. Curley? A-Yes sir I was acquaintee with him.

161 Q-State whether or not he was a member of the church presided over by Strang? A-He was.

162 Q-He belonged to the church that Strang presided over? A-Yes sir.

163 Q-State your best information and belief as to whether or not the branch presided over by Gurley, and represented by him at that Conference had been built up under or during the time of Gurley,-I should say, that Gurley was a member of the organization presided over by Strang.

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, and immaterial,-the witness having already shown himself to not have any knowledge on the subject.

A-I understand that was the case.

By Mr Kelley,-I move to exclude the answer of the witness as again, his understanding, and not his knowledge.

By Mr Hall.-

164 Q-State how you learned, or understand that to be the fact?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and hearsay.

A-Zenas H Gurley told me so,-that he and Hyrum Brown ordained it so.

165 Q-While he was a member of Strang's organization?

A-Yes sir.

166 Q-What position did Gurley occupy in the branch, if you know? A-In that branch?

167 Q-Yes sir? A-I understand that he was the presiding Elder of that branch at one time.

168 Q-He attended that conference at which the re-organization was effected in from the Yellow Stone or Zarah Hamlin branch? A-Yes sir he represented that branch.

169 Q-How did he represent himself at that conference?

A-That conference as you refer to?

170 Q-I mean the conference of 1852 at which you testified he was present? A-

Counsel for the plaintiff objects to the question on the ground that it is immaterial and leading.

A-Well my recollection is that it was as the Elder of the Yellow Stone branch.

171 Q-What kind of an Elder? A-Presiding elder of the Yellow Stone branch, that is my recollection of it. This all happened a great many years ago,-away back in '52 more than forty years ago, and I can't remember things as well as I once did. but that is my best recollection of what he represented himself to be.

172 Q-State whether or not there were any other branches besides the three that you have mentioned that were represented at that conference held in 1852? A-Well I think there was two or three others and still I don't now remember by whom they were represented.

173 Q-State as nearly as you can about how many took part in that conference?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading, incompetent, irrelevant and immaterial.

A-Well it would be difficult for me to say that. There was quite a number of the members and elders there, but just how many I could not say.

174 Q-State whether or not there was or were any steps taken at that conference to reorganize the church or to great a new organization of the church?

I61 Q-State whether or not he was a member of the church presided over by Strang? A-He was.
I62 Q-He belonged to the church th at Strang presided over? A-Yes sir.
I63 Q-State your best information and belief as to whether or not the branch presided over by Gurley,and represented by him at that Conference had been built up under or during the time of Gurley,-I should say, that Gurley was a member of the organization presided over by Strang.

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,and immaterial,-the witness having already shown himself to not have any knowledge on the subject.

A-I understand that was the case.

By Mr Kelly,-"I move to exclude the answer of the witness as being his understanding,and not his knowledge."

By Mr Hall.-

I64 Q-State how you learned,or understand that to be the fact?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and hearsay.

A-Jonas H Gurley told me so,-that he and Hyrum Brown raised it up.
I65 Q-While he was a member of Strang's organization? A-Yes sir.
I66 Q-What position did Gurley occupy in the branch,if you know? A-In that branch?
I67 Q-Yes sir? A-I understand that he was the presiding Elder of that branch at one time.
I68 Q-He attended that conference at which the re-organization was effected or from the Yellow Stone or Zarah Hamlah branch? A-Yes sir he represented that branch.
I69 Q-How did he represent himself at that conference? A-What conference do you refer to?
I70 Q-I mean the conference of 1852 at which you testified he was present? A-

Counsel for the plaintiff objects to the question on the ground that it is immaterial and leading.

A-Well my recollection is that it was as the Elder of the Yellow Stone branch.
I71 Q-What kind of an Elder? A-Presiding elder of the Yellow Stone branch,that is my recollection of it. This all happened a great many years ago,-away back in '5' more than forty years ago,and I can't remember these things as well as I once did. but that is my best recollection of what he represented himself to be.
I72 Q-State whether or not there were any other branches besides the three that you have mentioned that were represented at that conference held in 1852? A-Well I think there was two or three others and still I don't now remember by whom they were represented.
I73 Q-State as nearly as you can about how many took part in thatconference?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading,incompetent, irrelevant and immaterial.

A-Well it would be difficult for me to say that. There was quite a number of the members and elders there,but just how many I could not say.
I74 Q-State whether or not there was or were any steps taken at that conference to reorganize the church or to creat a new organization of the church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial, and leading.

A-What is that question?

I75 Q-I asked you if there were any steps taken at that conference looking towards the reorganization or creation of the church under a new organization?

A-There were no actual steps taken, further than to pass resolutions declaring our rejection of the different leaders, and stating that we stood in the expectation of one of the sons of Joseph Smith assuming the leadership of the church at some time in the future, and that in that position the church would stand accepting the leadership of no one. Now that is about what was done there at that conference in that direction.

I76 Q-State whether or not there were any steps taken to discipline, or try those who had been members of the church that you had separated from, because of teaching these false doctrines that you referred to?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is irrelevant and immaterial and leading.

A-No sir.

I77 Q-There was nothing of that kind attempted? A-No sir nothing of the kind was done or attempted. We simply dis-fellowshipped all these different leaders, and went it by ourselves until such time as the sons of Joseph or one of them would assume the leadership of the church. We declared that we would not follow any of these would be leaders any more, further.

I78 Q-You dis-fellowshipped them? A-Yes sir,-just declared ourselves free from them,-that was all.

I79 Q-Were they ever to your knowledge summoned or notified to appear and answer any charges of teaching false doctrine? A-No sir, I think there was nothing of that kind done.

I80 Q-The fact is then, that you simply withdrew from them

A-Yes sir, withdrew from them,-that is all there is to it.

I81 Q-Was, or was there not any members took part in this conference of 1852 that had never followed any-or these factional leaders after the death of Joseph Smith? ?

Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds that it is immaterial and leading.

A-There may have been, but I can't remember any of them. I can't call any one to mind now.

I82 Q-All that took part in that conference, had been, some time or other associated with some of these different factions? A-I think so.

I83 Q-That is your statement? A-Yes sir. I don't think of any exceptions.

I84 Q-State whether or not you were at all acquainted with the branch presided over by Harvey Green? A-No sir I was not.

I85 Q-You were not acquainted with that branch? A-No sir.

I86 Q-State whether or not they took part in this conference of 1852? A-Well I don't know where that branch was. There may have been some from that branch to that conference, for I will not say there was not any of them there, but I don't recollect about it if there was.

I87 Q-Did you know that branch? A-I don't believe I did. I do not remember where that branch was.

I88 Q-Well if you do not know where it was, of course you don't know anything about it? A-No sir I don't know of any such a branch.

I89 Q-Did you ever know anything about it? A-No sir I never heard of any such a branch.

I90 Q-State if you know by what authority you called,- or by what authority this conference of 1852 was called?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is

Incompetent, leading and not material to any or the issues in this case.

A-It was called upon the ex authority of mutual advice in a council of brothers Zenas H Gurley, Lorry Deems and myself, and brother Powell Malso-

~~I91 Q-State whether or no, since we have revelation that called for a con-ference? Any revelation that called for a revelation?~~

I91 Q-State whether or not there was any revelation that called for a conference? Any revelation that called for a revelation?

Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.

A-Called for this conference?

AI92 Q-Yes sir, this conference of 1852 or any other one?

A-Well I don't know of any.

I93 Q-When was the next conference held, if there was any more held? A-That conference of June 1851 that was held at Beloit, adjourned to meet in October following at what was known as the "Yellow stone" branch subsequently called "Zion's Hollow", but it was not right at the place where the branch meeting had formerly been held.

I94 Q-State whether or not at that conference there were any steps taken towards re-organizing or effecting a new organization of the Church of Jesus Christ of Latter Day Saints? A-Nothing further than the aforementioned general principle in regard to authority,- nothing further than that. We are legal authority to minister to these things and decide what should be done of course, but nothing further than that.

I95 Q-You still had authority to minister,-that is to preach and teach the doctrines of the church? A-Yes sir, as set forth in the book of doctrine and ~~xxxx~~ authority.

I96 Q-I will ask you to state what the decisions of that conference were in regard to what the legal authority was,-if you can state that? A-Well it was substantially this,-that those who had been legally ordained,-properly ordained to office of priesthood in the church, should be recognized, and the highest of those should act as presiding authority for the time being.

Counsel for the plaintiff objects to the answer of the witness on the ground that he has not defined what church he has referred to.

A-What is that?

By Mr Culley,-

I97 Q-The objection is you have not defined what church you have referred to, as to those parties having derived their authority from?

By Mr Hall,-

I98 Q-Well we will try and correct that. I will ask you to state whether or not the ordinations performed by James J Strang, or William Smith under their organizations, were considered legal by those who met together in this conference, or these conferences of '52 and '53 that you have referred to?

Counsel for the plaintiff objects to the question asked

on the ground that it is inadmissible and incompetent,and irrelevant,and because it is not comketent evidence,nor the best evidence,-the record evidence which is always the best evidence,on that subject being introduced into evidence.

A-That point was raised,and it was substantially,as I understood it,decised that James J Strang or William Smith could legally ordain two certain occices.

199 Q-That was the decision that was arrived at? A-Yessir

200 Q-That was the understanding that the conferences arrived at,-that William Smith and James J Strang could legally ordain two certain offices? A-Yes sir.

201 Q-Well what offices did you conclude that they could legally ordain to? A-An Elder-priest,teacher and so on. We arrived at that conclusion in accordance with the law laid down in the books of authority in the church.

202 Q-I will ask you to state whether or not the conference referred to accepted any of the ordinations performed by either William Smith or James J Strang to the offices of Seventies,high priests,apostles,or patriarchs,or presidents,-?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,leading and not the best evidence.

A-Let me see,-whether any such ordinances were accepted,-is that your question?

203 Q-Yes sir,-were any such ordinances accepted as legal

A-Well they were not specifically accepted.

204 Q-I will ask you to state whether or not in the ordinations by any parties were accepted by these conferences to those offices referred to? I mean that were performed after the 27th day of June 1844?

A-No sir,they were not with one single exception,and that was the office of high priest.

205 Q-The office of high priest was accepted,-ordained after that date? A-Yes sir,as I understand it,that was the way.

206 Q-That was the conclusion that was arrived at? A-I so understand it.

207 Q-Now I will ask you to state what church you considered you were a member of at the time of the holding of these conferences in '52 and '53?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and calls for an opinion of the witness,and is a cross examination by defendant of his own witness.

A-The Church of Jesus Christ of Latter Day Saints was the styling of our claim. That is what we claimed was the style of the name of the church,for we claimed to be a part and parcel of the church.

By Mr Kelley,-"I will withdraw my objection".

By Mr Hall,-

208 Q-Now I will ask you to state when you held the next conference,-if you held another? A-In the spring following,-on April 6th.

209 Q-What year was that? A-In 1852.

210 Q-Was that in '53? A-Yes sir that would be in '53.

211 Q-What steps were taken at that conference towards re-organizing the church or effecting anew organization of the Church of Jesus Christ of Latter Day Saints? A-There were steps taken. There was a quorum of Twelve,-that is there was seven of the quorum of Twelve chosen and ordained.

212 Q-Is that all that was done? A-There was also some high priests and some of the seventies chosen.

213 Q-I will ask you to state whether or not this was done by virtue of a revelation, or was it simply done by the action of the conference? A-Well I would say it was partly both.

214 Q-Please explain what you mean by that? A-Well I mean to say it was partly by revelation and partly by act of the conference.

215 Q-It was partly the act of the conference acting on its own responsibility, and partly done by virtue of a revelation? A-Yes sir.

216 Q-State if you can to whom, or through whom this revelation was given?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and does not call for the best evidence.

That particular revelation that is referred to in that answer was given to Henry Jones.

217 Q-I will ask you to- state what part Henry Jones took in that conference? A-He acted,-let us see,-he acted as an elder or high priest. He was recognized as a high priest with the others that were ~~xxxx~~ priest hoods.

218 Q-I will ask you to look at this paper which I have you, entitled "True Latter Day Saints Herald", published March 1870, volume one, number three. Do you know it an article headed "History of the new organization of the church," by Jonas Curley? A-Yes sir.

219 Q-Now I will ask you to look on page fifty five at the bottom of the page, commencing at the word "verily" thus saith the Lord" in the fifteenth line from the bottom. Now read that and see if that is not the revelation referred to as having been given through Henry ~~x~~ Jones?

Counsel for the plaintiff objects to the question asked the witness on the ground that the article he is asked to read is incompetent, irrelevant and immaterial, and has nothing whatever to do with any of the issues in this case.

A-What is that question?

220 Q-Can you identify that I have directed your attention to as the revelation that was given to Henry Jones? A-It purports to be the same one, but it is not exactly correct. It is correct with the exception of that "ten" in there. It should be "assisted by two others" instead of "ten" others". It reads "assisted by ten others", and it should read "assisted by two others".

221 Q-Well that is a typographical error,-it is a misprint? Read it.

Counsel for the plaintiff objects to the quotation referred to being read in evidence, for the reason that it is incompetent, irrelevant and immaterial, and it has been shown by the witness that the paper is not correct.

222 Q-I will ask you to state whether or not it is correct with the exception of that one particular to which you have referred? A-I think so. I think it is the same. I don't think there is anything else materially wrong about it. Well there is another defect. The word "senior" was in that document,-the "senior shall presiden." With that exception and the other one I have spoken of it is correct. With these two exceptions it is correct.

223 Q-Well it reads,-"the senior of them shall stand as a representative"? A-Well that is in there.

224 Q-Yessir that is the way it reads? A-Is that in there?

225 Q-Yes sir,look for yourself and see if it is not in there? A-Yes sir that is correct. I did not see it before.

226 Q-Now I will ask you to state whether or not it was by virtue of the commandment contained in this revelation(the revelation has not been read by either counsel or witness)that the work of ordaining these men to the apostleship was performed and conferred? A-It was.

227 Q-I will ask you to state whether or not there was any printing authorized to be done at that conference A-I don't think there was.

228 Q-Do you remember anything about that? A-I don't think there was,and still I will not say that there was not,for there might have been. I know there was printing authorized at some of the conferences,but I don't remember now whether it was that one or not, ~~for~~ ~~where~~ ~~xxxxxxxxxxxxxx~~ I can't say as to that.

229 Q-I will ask the reporter to read for you,as you cannot read very well yourself,the title of exhibit "I0" (which was read as follows,-"A word of consolation to the scattered saints". Do you recollect that? A-Yes sir.

230 Q-I will ask you to state whether or not you took any part in the writing ~~xxxx~~ that pamphlet entitled"A word of consolation to the scattered saints"? A-I did

231 Q-I will ask you to now state by what authority that was written? A-By the authority of the conference.

232 Q-What conference was that? A-The conference of 1852 That conference authorized the preparation of a pamphlet,and appointed a committee to prepare it,and I was one of that committee.

233 Q-Then it was prepared by a committee appointed by the conference of 1852 for that purpose,one of which committee you were a member? A-Yes sir.

234 Q-I will ask you to state whether or not the whole pamphlet including the three ~~xxxxx~~ extra pages,was authorized by the conference?

By Mr Kelley,-"I object to that as not the best evidence It does not call for the best evidence,-the pamphlet itself is the best evidence and is in the hands of the party conducting the examination".

235 Q-Answer the question? A-The conference authorized the publication of a pamphlet,setting forth the position we occupied,and the committee in preparing it we not confined to any particular number of pages or to any particular space. That was a matter that was left entirely to the committee as I understood it. Now that is the history of the ~~xxxxxxxxxxxx~~ preparation of that pamphlet,up to the time that it was submitted to the conference after its preparation

236 Q-I will ask you to state whether or not that committee ~~xxx~~ ~~xxxxxxxxxx~~ to the conference their work for acceptance? A-Yes sir, they reported the pamphlet to the conference after its preparation as the result of ~~xxxxx~~ their work.

237 Q-I will ask you to state whether it was presented before it was printed,,or was it in manuscript form? A-It was presented in manuscript form.

238 Q-Then it was presented before it was printed? A-Certainly it was.

239 Q-Now I will ask you to state whether or not the committee were authorized upon its presentation ~~x~~ in the first instance to the conference for acceptance or for its action,-whether or not the comitted

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238 Q-Then it was presented before it was printed? A-Certainly it was.

239 Q-Now I will ask you to state whether or not the committee were authorized upon its presentation ~~x~~ in the first instance to the conference for acceptance or for its action,-whether or not the comitte

were authorized to make some corrections or additions to ~~xxxx~~ is it that is to what was written when it was presented in manuscript form to the conference

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not the best evidence.

A-I think there was and still I do not remember distinctly what was done by the conference. I apprehend that the pamphlet itself will give you more exact and correct ~~x~~ information on what was done in that respect than I can.

340 Q-Well do you recollect that there was anything added to it? A-Yes sir, I recollect that there was an addition or two made to it.

341 Q-For to refresh your recollection I will read from ~~xxx~~ the paper one sentence at the top of the page,- "against an evil which has well nigh completed the over-throw of the church, which is upon like, both in order it has produced anarchy; instead of union, division; in short, instead of confidence and love, distrust and hatred." We refer to the system of spiritual affinity taught by Brigham Young and the duality doctrines of James J Strang, and the fouler system of unrestrained taught by William Smith and his joint occupant called Rick Gunn.

These systems each, unlike each other, are all known as a system or [illegible], under which they themselves to be sealed; hence we will no longer of this unnatural present name, but under the less offensive or semi-legal one, viz, "polygamy". I will ask you if you can identify these as a part of the word of revelation that you were appointed to write?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons above set forth.

A-It is a part of the pamphlet that was written and prepared after the rest of it had been written. These papers were first been written and are prepared after the rest of it was written, for when it was reported to the conference it thought it was not just where it should be, so it was reported back again to the committee, and these three pages were added, I am not sure but that was written after the rest of it had been accepted by the ~~xxxxx~~ Conference. I rather think it was.

242 Q-And then it was printed as shown here? A-Yes sir.

243 Q-By what authority were these three pages written? A-Well I thought I explained that, but perhaps I did not fully enough. The fact is that there had been a manifestation through some of the members of the ~~xxx~~ church in regard to this polygamous practice,-this polygamous doctrine and it had been shown in that manifestation or manifesto that it should be struck at more directly and ~~xxxxxxxxxx~~ vigorously than it had been in the pamphlet in the first place as it was presented to the conference, and hence these three pages were written to do that as suggested in the manifestation. How that is about the whole truth of it.

244 Q-Then as a matter of fact it was done through and by the authority of a revelation,-that is these three pages were? A-Well I ~~xxxx~~ have said all I have to say in regard to that. It was done in the way I have stated, and whether it was done by the authority of a revelation is something that you can conclude as well as I can.

245 Q-State to the reporter whether there was and other action taken in regard to this matter by the

action taken in regard to this matter by the conference? A-What matter?

246 Q-In regard to the matter of these three pages? A-I cannot say. I am not aware that there was.

247 Q-I will ask you to state whether or not the statement made here in regard to William Smith was true? A-I cannot say. All that I can say is that the committee believed it to be true

or it would not have gone in there. I know that I am one of the committee believe it to be true or I should not have consented to its going in there.

248 Q-I will ask you to state whether or not, you know it was true?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading, and is a cross examination by defendant of his own witness.

A-Well I would prefer not to answer that question. Well of course I don't know.

By Mr Kelley,-

249 Q-Well, if you don't know didn't say so? A-Well that is what I say I don't know personally.

250 Q-We don't want to hear anything about what you heard, or what you have believed about it? A-Well the committee believed it was true, and I am one of the committee I believed it was true.

By Mr Kelley

251 Q-Well you don't know anything personally about it, true or false? A-No sir, but I will say it was true

By Mr Hall,-

252 Q-I will ask you to state whether you made this answer with reference to the time that Smith was written, or whether you mean it made reference to the time that you were associated with Smith as a member of his church?

Counsel for the plaintiff objects to the question as the witness on the ground and for the reason that it is incompetent, irrelevant, immaterial, and leading.

A-Well I don't exactly get the idea of that question. What is the question?

253 Q-Who or what did I cause you to be in the case or not, when you made this statement, that you don't know anything about the truth or falsity of the statements made in that pamphlet, the reference to the time it was published, or whether you mean in this reference to the time

that you were associated with Smith as a member of his church, and your answer is the opinion of the Priests Lodge referred to in your answer?

Counsel for the plaintiff objects to the question for the reasons above given.

A-Well now I want to be understood. I do not want to be misunderstood. I know as I have stated heretofore, that William Smith taught polygamy, or the plurality of wives, and I believe that he taught and practice something worse than that,-and it is that,- That is the reason why as a committee we made that statement in those terms again.

254 Q-Well that is satisfactory?

By Mr Kelley,-"I move to exclude the answer of the witness on the ground that it is simply the opinion and the belief of the witness, and is improper and incompetent, as evidence in a case like this."

By Mr Hall,-

255 Q-State what office you were appointed to fill, if any, at this conference at which this re-organization took place that you have referred to? A-I was one of the seven men that were ordained apostles.

256 Q-You were one of the seven apostles that were ordain-ed at that conference? A-Yes sir.

257 Q-Well you may state how long you continued to act in the office of an apostle? A-Well from that time down to '85.

258 Q-From what time down to '85? A-From that time in '53 down to- '85.

259 Q-Who else were ordained apostles at that conference? If you can state their names you may do so? A-It was Zenas H Gurley, Henry Deans, George White, Daniel Rasy, John Cummingham, a man named Jenkins,-Reuben Jenkins was his name., I think these were the men,-yes sir that is right, and myself we made the seven.

260 Q-I will ask you to state whether or not Henry H. Deans became disaffected from the church or from the conference at that time?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial and leading.

A-At that time do you say?

261 Q-Yes sir, or before that time? A-Not that I am aware of. If he did, I am not aware of it.

262 Q-State whether or not he became disaffected at any subsequent time? A-At any time after that?

263 Q-Yes sir? A-He did.

264 Q-Well about that time was that? A-Well a couple of years after-wards ~~xxxx~~ perhaps he became disaffected I do not remember just what length of time it was after that conference that he became ~~xxxxxxxxxx~~ dis satisfied, but I think it was a couple of years after that, or some such time as that, and then he left the church.

265 Q-State whether or not the quorum that was selected and ordained at that time remained unbroken until say 1880? A-Well if you will tell me what you mean by "unbroken", I can answer the question properly.

266 Q-Well I mean whether there was any of that quorum that left the church or were disfellowshipped or became disaffected in any way? A-There was some left and some added.

267 Q-Please explain what you mean by that? A-Well I mean what I say that there was some left the church and others were added from time to time, for the quorum was kept up to that number I think all the way through.

268 Q-About how many left in that time? A-There was two or three left and there were others added in their places.

269 Q-What was the name of the movement or of the re-or-a-nization that was effected at that time? A-At that conference?

270 Q-Yes sir? A-Well I ~~x~~ don't know as I understand ~~xx~~ that question.

271 Q-Well I mean by what name was that movement known, if you know, you may state the name by which it was known.

Counsel for the plaintiff objects to the question asked the witnesson the ground and for the reason that it is incompetent, irrelevant and immaterial, and leading.

A-It was known by a conference of the Church of Jesus Christ of Latter Day Saints.

272 Q-I will ask you to state-whether or not there was any such a name known at that time as "The Re-organized Church of Jesus Christ of Latter Day Saints? A-Well I don't know that the name "reorganized", appeared in any of the works of the church at that time. That is I don't know that it appeared in any of its publications. If it did I do-not remember of it.

256 Q-You were one of the seven apostles that were ordain-ed at that conference? A-Yes sir.

257 Q-Well you may state how long you continued to act in the office of an apostle? A-Well from that time down to '85.

258 Q-From what time down to '85? A-From that time in '53 down to- '95.

259 Q-Who else were ordained apostles at that conference? If you can state their names you may do so? A-It was Zenas H Gurley, Henry Beebe, George White, Daniel Rasy, John Cummin ham, a man named Jenkins,-Reuben Hewins was his name, I think these were the men,-yes sir that is right, and myself we made the seven.

260 Q-I will ask you to state whether or not Henry H. Beebe became disaffected from the church or from the conference at that time?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial and leading.

A-At that time, do you say?

261 Q-Yes sir, or before that time? A-Not that I am aware of. If he did, I am not aware of it.

262 Q-State whether or not he became disaffected at any subsequent time? A-At any time after that?

263 Q-Yes sir? A-He did.

264 Q-Well about what time was that? A-Well a couple of years after-wards when he became disaffected I do not remember just what length of time it was after that conference that he became dissatisfied, but I think it was a couple of years after that, or some such time as that, and then he left the church.

265 Q-State whether or not the church that was selected and organized at that time remained unbroken until say 1860? A-Well if you will tell me what you mean by "unbroken", I can answer the question probably.

266 Q-Well I mean whether there was any or that church that left the church or were disfellowshipped or became disaffected in any way? A-There was some left and some acted.

267 Q-Please explain what you mean by that? A-Well I mean that I say that there was some left the church and others were added from time to time, for the church was kept up to that number I think all the way through.

268 Q-About how many left in that time? A-There was two or three left and there were others added in their places.

269 Q-What was the name of the movement or of the re-organ-ization that was effected at that time? A-At that conference?

270 Q-Yes sir? A-Well I don't know as I understand the that question.

271 Q-Well I mean by what name was that movement known, if you know, you may state the name by which it was known.

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A-It was known by a conference of the Church of Jesus Christ of Latter Day Saints.

272 Q-I will ask you to state-whether or not there was any such a name known at that time as "The re-organized Church of Jesus Christ of Latter Day Saints? A-Well I don't know that the name "reorganized", appeared in any of the works of the church at that time. That is I don't know that it appeared in any of its publications. If it did I do-not remember of it.

273 Q-I will ask you if the name of the organization as "The Re-organized Church of Jesus Christ of Latter Day Saints",was known at that time? A-It was not at that time,but it was subsequently known by that name

274 Q-When was it known by that name? A-It was never known by that name until January 1860 according to my remembrance of it.

275 Q-I will ask you whether or not it was considered by that conference of the church that it was a new organization of the church? A-I never heard it so termed, and did not so understand it my self?

276 Q-You did not term it so yourself? A-No sir,and I never heard any one else term it so.

277 Q-Nor"re-organization"? A-No sir. I don't remember that that word was used.

278 Q-I will ask you to state whether or not that,-whether or not you were acquainted with the new,-with the doctrine of the new organization organized at that conference down to 1860 and the reorganized church of Jesus Christ of Latter Day Saints from 1860 up to the time you referred to it in 1865?

Counsel for the plaintiff objects to the question as ed the witness on the ground that it is incompetent,irrelevant and immaterial,it not having been shown that there was any new organization.

A-I was. I came to understand something about it for I was acting, continually in connection with the rest of the church. Under the circumstances I may say that I am fairly well acquainted with its doctrine.

279 Q- I will ask you if the doctrine of baptism for the dead is ever been taught or practiced in the reorganized church? A-Never to my knowledge.

280 Q-Do you mean to say that it has not been taught or practiced? A-Yes sir,to my knowledge it has never been taught or practiced. That is it has not been taught as a present duty,and it has not been practiced.

281 Q-I will ask you to state whether or not the doctrine of the baptism, as taught in the old church, has been taught or practiced in the re-organized church? A-It has been taught all through more or less.

282 Q-I will ask you to state if you recollect,-whether or not you are acquainted with the different offices there in the reorganized church of Jesus Christ of Latter Day Saints?

A-Yes sir.

283 Q-You are acquainted with the different offices there is in the reorganized church of Jesus Christ of Latter day Saints? A-Yes sir,I suppose I am.

284 Q-That is up to 1865? A-I know what they are.

285 Q-I will ask you to state whether or not during your whole experience with,and connection with that church ,there was ever at any time a full quorum of Twelve Apostles? A-No sir,there never has been and is not now I understand.

286 Q-I will ask you to state whether or not there has been a Patriarch.

By Mr Kelley,-"We object to all of those questions-on the ground that they are immaterial and leading".

A-There never has been.

By Mr Hall,-

287 Q- I will ask you to state whether or not you are acquainted with

the books that are accepted by the Reorganized church of Jesus Christ of Latter Day Saints ,as the standards of authority x in the church? A-I suppose I am.

288 Q-Well,are you? A-Yes sir,I expect I am.

289 Q-I will ask you to state what the books are that are accepted as the standards of authority in that church? A-The bible,the book of Mormon,and the book of Doctrine and Covenants.

290 Q-These are the books that are accepted as the rules of authority in the Re-organized Church of Jesus Christ of Latter Day Saints? A-Yes sir,they were when I was in it,and are yet I believe.

291 Q-Is there any other book or books that are accepted as an authority or rule of action on the church? A-I am not aware that the xxxxhx church has accepted any others at any time.

292 Q-I will ask you to state whether or not you have or are acquainted with the book published by the Re-organized church of Jesus Christ of Latter Day Saints ,called the Holy Scriptures? A-Yes sir,and I have

[illegible] ,and have read it.

293 Q-I will ask you to state whether or not there is any difference between this book called the Holy Scriptures,published by the reorganized church of Jesus Christ of Latter Day Saints,and the ordinary translation of the bible? A-Yes sir.

294 Q-What is the difference? A-Well there is different readings in various places.

295 Q-Now I will offer for the purpose of identification the "Saints Herald"which is the official paper of the reorganized church of Jesus Christ of Latter Day Saints,published at Plano,Illinois.,October 1st 1922?

(The publication above referred to was being offered for identification was marked exhibit "S")

296 Q-and on page two hundred and ninety five,the resolution is of record,commencing at the words "resolved",- I will read it,-"Resolved That this body representing the Re-organized church of Jesus Christ of Latter Day Saints,does hereby authoritively endorse the Holy Scriptures as revised,corrected and translated

by the spirit of revelation,by Joseph Smith,Junior, xxxx the seer,and as published by the church we represent". A-I have seen that before.

297 Q-Did you attend that conference? A-I don't think I attended it.

298 Q-Not do not offer as that in evidence for the purpose of showing, that the reorganized church of Jesus Christ of Latter Day Saints,the plaintiff in this action,has adopted a book as a standard of authority in the original church of Jesus Christ of Latter Day Saints?

Counsel for the plaintiff objects to the offer of proof made by the defendant on the ground that it is immaterial and incompetent.

299 Q-I will ask you to state whether or not you attended a conference of the church of Jesus Christ of Latter Day Saints in the year 1857 that was held at Blanchardsville,Wisconsin? A-Yes sir I attended that conference.

300 Q-I will ask you whether or not you were appointed in connection with a man by the name of Granville Hedrick as a committee to write a statement of the beliefs of the church,or the belief of the church?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial and incompetent,and not the best evidence.

A-What is the question?

301 Q-I asked you if at that conference held at Blanchardville, Wisconsin, you were appointed a committee, upon a committee with Granville Fredrick to write a statement of the articles of faith the church, or of the belief of the church? A-My memory is at fault in regard to that, for I have no distinct memory in regard to any such appointment, and still I have some faint recollection of some talk of that kind, and whatever there is to it, we did nothing of the kind. I am positive of that, for if I did I think I would recollect it, but the whole thing seems to have gone from me.

302 Q-I will ask you to state whether or not Granville Hedrick associated with you and the center now there, in fellowship, as a member?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, and immaterial, and does not call for the best evidence.

A-Do you mean?

303 Q-Do mean? A-I do sir. I never understood that he was. Or that is my memory of the matter.

304 Q-I will ask you to state whether there has been any revelations given through the present head of the Reorganized Church, Joseph Smith, that have been acted upon without the 12 men, present to the church for their approval?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, and immaterial.

A-Well I think there has been.

By Mr Kelley,-

305 Q-Well do you know of your own knowledge? A-I said I think so. Some of them have been acted upon without being presented to the various quorums,-at least I am not sure that some of them were over presented to any quorum.

By Mr Hall,-

306 Q-Can you state which of the revelations, if any, were ever acted upon without being submitted to the quorums? A-I do?

307 Q-Can you state which of the revelations, if any, were acted upon without being submitted to the quorums for their approval? A-Well there was a revelation concerning the colored race, that I am not sure was ever presented to the quorum. It is possible that it was, however, but I do not remember that it ever was presented when I was present. It was never presented to any quorum that I was in I don't think.

308 Q-I will ask you to state whether or not you have been present generally at the assembling of the conferences of the Reorganized church? A-Well I might say generally I have been. I have been absent some times however, for I was away a year or two at a time.

309 Q-I will ask you to state whether or not you can remember being present at a conference held in '85? A-Spring or autumn?

310 Q-In the spring or autumn,-either one? A-Well now I don't remember distinctly whether I was present or not in '85.

311 Q-Can you state about what times you were away on a mission, if at all? A-What years? Q- you mean?

312 Q-Yes sir? A-Yes sir.

813 Q-Well what years was it? A-It would be in '63 and '64 and in '68 and '69,and in'74 and '5 and '6,-along there.

814 Q-I will ask you to state whether or not it is the invariable rule that the revelations given through Joseph Smith had to be submitted to the quorum of twelve and the other quorums before they were presented to the church for its approval or disapproval A-No sir.

815 Q-Well what do you mean by that? A-I am aware that it has been practiced. Some of them have been submitted to the quorum of twelve,and some of them have not,so far as my memory goes.

816 Q-Then so far as your knowledge goes,some of them have been submitted to the quorum of twelve and some of them have not? A-Yes sir.

817 Q-I will ask you now to state whether or not there was a church paper published before the death of Joseph Smith? A-Yes sir.

818 Q-What was it called? A-The Times and Seasons. That was understood to be the church paper, as I understand the church.

819 Q-I will ask you to state whether or not you were in the habit of reading that paper? A-Yes sir,I was in the habit of reading it regularly.

820 Q-You read it regularly,-is that what you stated? A-Yes sir,I read it regularly.

821 Q-Can you state whether or not you could identify portions of or extracts from that publication by reading it now? A-Well I might and I might not.

822 Q-In which is "D" on page four hundred and twenty seven,the seventh and six lines from the bottom of the second column, and commencing at the end of that paragraph of which the last word is "plenties". It is as follows,- "Are not I say unto you as pertaining to my housing rites,which I have commanded you to build for the house of Israel;for it is built unto my name, and let my name be named upon it,and let my servant Joseph and his house have place therein from generation to generation, for this anointing I have put upon his head,that his blessing shall be put upon the heads of his posterity after him,and as I said unto Abraham concerning the kindreds of the earth, even so,I say unto my servant Joseph,in them,and in my name,shall the kindreds of the earth be blessed". Now do you recognize that language? A-I do. Yes sir I recognize it.

823 Q-As a part of the Times and Seasons published at that time?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading,incompetent and immaterial.

A-I do not recognize it as being in the Times and Seasons on that date,but I recognize it as a part of the revelation that was published in the Times and Seasons

824 Q-As a part of the revelation? A-Yes sir.

825 Q-I will ask you to state if you can from what you know,what the teaching of the church was,or the leaders of the church so far as you ascertained from the Times and Seasons in regard to the church taking part in the affairs of state,-in other words,-in regard to the church and state being together?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading,incompetent,irrelevant and immaterial,and not the best evidence.

A-In the popular sense or acceptation of that phrase "the church and state",I always understood them,- that is that the church of

Jesus Christ of Latter Day Saints were apposed to it,in the popular sense.

326- Q-In exhibit "D",which is a volume of the Times and Seasons in the number published in the city of Nauvoo,Illinois.on Saturday June 1st 1844 at the head of the editorial columns appeared this,- "For President,General Joseph Smith,Nauvoo,Illinois;for vice President-Sidney Rigdon,Esq.

President Sidney Rigdon,Esq' of Pennsylvania".,and in the second column of the same page,the same being on the hundred one fifty two,commencing at the top of the page one reading to entitled "A word to the wise?,down to the words "et beware". I will read it to you as follows,-"Some people are so very religious that their religion stinks out so far that their

not always break upon it,and then there is a fuss and confusion,and surprises,and complaints,and sometimes a little unessiness that comes of the fall-ing down. To prevent such unnecessary trouble,and keep away from stinking water,and in fact,from doing wrong,we have thought advisable to caution all against the practice of guessing where,until they have been weighed in the balance,and are not found wanting themselves.

The Times and Seasons contains religious and political articles,every one;to which we apply,earnestly, in behalf of the whole. We regard it as the reform the world in religion and politics,in ways and means, in power and glory,in truth and virtue. Instead of mere errors and delusions,certainly shun their fruits;correct your own. When foul,first cast the mote out of thine own eye,and then thou can see clear-ly the mote in thy brother's eye. The difficulty that is press the United States is that truth and holiness,which combined are practices,are less religion,should not be mixed with power and policy,which is the business of

government,because some type from Cottingham,or some other college man jumps in the well of extra pious,that tent would be mixing church and state. Do not the kill,he never heard of such arrangements.. Union,virtue,truth,holiness,policy and power. Look out lest you shut in consume and give place to the world and save treasure and bless. However,however,lest a "thus saith the Lord",should be a better rule to govern the people,than an"I take

the responsibility". Do beware" do you recognize

it?"

Counsel for the plaintiff objects to the question asked the witness and the extract just read to the witness MM-for the reason that it is incompetent,irrelevant and immate-rial,and it does not appear who was the author of it, or that it had any responsible author.

327 Q-That is an editorial contained in the Times and Seasons of the date I have heretofore given you, and John Taylor was its editor and proprietor. Do you remember that? A-Yes sir,I recollect it.

328 Q-Now on page five hundred and six in the second column,and commencing at the words"these elders";and reading down to the end of the paragraph with the date "Nauvoo,April 15th 1844." It reads as follows,- "Those elders who are numbered in the xx foregoing list,to preside over the different states,will appoint conferences in all places in their several states where opportunities present,and will attend all the conferences,or send experienced and able elders,who will preach the truth in righteousness,and present before the people General Smith's views of the power and policy of the General Government,and seek dili-gently to set up electors who will go for him for

[illegible] only to get electors, who will go for him for the Presidency.

All the elders will be faithful in preaching the gospel in its simplicity, no beauty, in all meekness, humility, long suffering, gentleness, peacefulness; the twelve will devote the season to travelling, and will stay as many conferences as possible.

Elder B. Young is instructed to visit Upper Mississippi, Illinois, Iowa, North and South Carolina, and Tennessee, to visit the churches, hold conferences, and [illegible] over.

[illegible] present.

[illegible] of Twelve.

[illegible]"

Counsel [illegible] by [illegible]

329 Q-I will ask you if it is not a matter of public notoriety that the people of this Territory are [illegible]

330 A-[illegible]

331 Q-I will ask you if it is not a matter of public notoriety that the people of this Territory are [illegible] if

Counsel [illegible] the [illegible] inc[illegible] to [illegible]

[illegible] was [illegible] of the [illegible] of [illegible] of [illegible] under-[illegible]

332 Q-[illegible] support to [illegible] and [illegible]-that they were to [illegible] ?

A-[illegible] to their [illegible] have [illegible]

[illegible] they were to [illegible] the same [illegible] political interests of their [illegible]

333 Q-I will ask you to state Mr Orr's question whether or not [illegible] revelation on polygamy or plural marriage, which was at least in [illegible]

Counsel for the plaintiff objects to the question asked the witness on the grounds that it is irrelevant, incompetent, and not pertinent to the issues in this case, and [illegible] for security evidence.

A-Yes sir.

334 Q-You have heard of it? A-Yes sir, I have heard of it.

335 Q-Well what did you hear? A-I heard there was one.

336 Q-I will ask you to state whether or not there was

[illegible] going on amongst the members of the church when you were there in 1842 at Nauvoo, about this revelation on polygamy or plural marriage?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons ~~xxxxxxxx~~ as stated in the last proceeding objection.

A-Yes sir, there was considerable talk going on about it at that time, when I was there, and continued to be,

but it was not called plural marriage,-it was called "sealing".

337 Q-I will ask you what you understood this "sealing" to be at the time that talk was going on? A-That I understood it to be? Is that what you want to know?

338 Q-Yes sir?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading, and calls for an opinion of the witness.

A-Well at that time I understood that it was sealing [illegible] to be in the spiritual city,-to be his wife spiritually,-his wife in the spiritual world.

By Mr. [illegible],-"I will by witheld my objection to the question in view of the answer of the witness."

By Mr. [illegible],-

339 Q-I will ask you to state whether or not it was the [illegible] part, or if it was not a [illegible] revelation and origin [illegible]?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is leading, incompetent, irrelevant and immaterial.

A-Well there was that talk.

340 Q-[illegible] did you hear about it? A-I was told by [illegible] of the church that there was such a revelation.

341 Q-I will ask you to state whether or not this talk [illegible] by [illegible],-whether it was by the members of the church or [illegible] of the church, or by both?

Counsel for the plaintiff objects to the question for the reason [illegible].

A-It was the members of the church that I talked with on the subject.

342 Q-Did you hear any on the outside of the church say [illegible]? A-No sir, not at that time. At [illegible] it was not [illegible] of the church.

343 Q-I will ask you to state, in your opinion, if any, you are [illegible]? A-I am not a member of the church at the present time.

344 Q-I will ask you to state whether you have any interest in the outcome of the result of this suit,-any property interests I should say, directly or indirectly in the result of this suit? A-I have none,-none whatever.

345 Q-I will ask you to state whether or not the doctrine and practices of the Reorganized Church of Jesus Christ of Latter Day Saints at the time you separated from it were the same as the doctrines and practices [illegible] at the time of this suit, and in the [illegible] or [illegible], there,-whether or not the doctrines and practices of the church were the same now as then?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent, irrelevant and immaterial.

A-As far as the first principles were concerned it was the same. There were some things taught however that I believed were a little different.

346 Q-State whether or not that was the reason for your separation from the Reorganized church? A-Well partially,-not wholly,-but perhaps partially.

347 Q-I believe that is all?

Cross examination by W-L, Kelley,-

348 Q-These matter that you have just referred to as being,-or rather as coming up at the time of your separation,-now to refresh your memory I will call your attention to the fact if it was not ~~so~~ things that supposed,more than things that were actually said and done? Is it not a fact that it was things that were supposed to be facts than things that were actually said and done? A-In what way?

349 Q-In the matter of church procedure,-in the matter of [illegible],and church policy,that caused an action of that kind being taken? A-How do you want me to answer that?

350 Q-Yes sir, just as nearly [illegible]? A-Well now in that [illegible] full idea, for I don't think [illegible] conversation.

351 Q-In the matter of your separation from the church, was it not a matter of procedure and church policy that you did not agree with more,than anything else? A-[illegible] in occasion of what kind?

352 Q-On the occasion of your action in separating from the church? A-Well now that is a hard question for me to answer, for I can answer that question both [illegible] and therefore I find it rather difficult [illegible]. I cannot answer that question [illegible], and do justice to myself or you either. [illegible] if you want me to do so in my own way I will [illegible], but [illegible] I will have to [illegible].

353 Q-I [illegible] in this way,-whether there was any vital [illegible] in the church that your action [illegible] in separating from the church? A-No sir, I [illegible]. I did not allege there was.

354 Q-There [illegible] vital [illegible] in the doctrine of the church [illegible] influence your action? A-No sir, [illegible] vital. There was nothing [illegible] I would xxtlxyixxx consider vital [illegible].

355 Q-I will ask you if you did not [illegible] few weeks after your separation,and had it published in the "Saints Herald" in which you stated these words substantially that "had the decisions of the reorganized church been [illegible] in answer to your request,that possibly there would have been no occasion for [illegible] it". Do you remember that language of yours [illegible]? A-I remember something of that kind.

356 Q-Is that not substantially what you stated? A-I [illegible] I remember some things of that kind,but whether that is exactly what I stated or not I do not know. I think it is altogether likely that you have stated substantially what was said. I remember it substantially something of that kind. I will answer that if you are willing,and give the exact fact as I [illegible] it.

357 Q-Well the question is answered with reference to any [illegible],and that is all that is necessary to be said I think? A-It was not in the vital doctrines that anything new was brought in,but it was the interpretation put on certain lines of policy and doctrine,and while others were allowed to discuss those lines of policy I was not permitted to do so,but was shut out. I could not be heard,and consequently as I expressed it at the time,I was gagged and bound and did not have an opportunity to answer and express my views as I thought I had a right to do. That was

my views ,as I thought I had a right to do. That was what I objected to more particularly,and not to any change of the vital doctrines of the church. That was the way I looked at it,and when that condition came to pass I felt that I was out of place in the councils or in fellowship with people that were not satisfied with attempting to bind me,but must needs attempt to gag me as well.

358 Q-It was simply a matter of discussion through the columns of the Herald was it not? A Yes sir.

359 Q-It was just through a discussion that arose and which was carried on through the columns of the Herald? A-Yes sir,which was attempted to be carried on,but while the other party was allowed access to the columns of the Herald,I was denied that privelodge.

360 Q-Now to refresh your recollection,-you were asked with reference to attending the Generac Conference, etc? A-Yes sir.

361 Q-Wait a moment,-you were ask ed with reference to attending these General Conferences. Now I will ask you with reference,-I will call your attention to the General Conference that was held in April 1865? A-Yes sir.

362 Q-Which was held at Sandwich,Illinois,or at the home of Elder Israel L. Rogers? A-Yes sir.

363 Q-Now after thinking over the matter do you not recollect that you were not at that conference,-that you were not in attendance at that conference? A-No sir.

364 Q-Do you mean that your recollection is that you attended it? A-No sir,I do not think that I was at that conference for I have no recollection of having attended it at all. If I attended that conference I have no recollection of having done so.

365 Q-Well that is it. I only wanted to call your attention to it,for I was there,and I know that you were not there? A-Well I was not there,and I don't think I said I was there. If I said I was there I was mistaken for I am sure that I was not there. Now that brings it to my mind that I should have answered in answer to the question as to whether or not I attended the general conferences,I should have said that I generally did attend them,and as a matter of fact I did invariably attend them for the first eight or nine years after the reorganization,but after that I did not invariably attend them.

366 Q-You were asked with reference to the fact,if you had not and did not hear of the doctrines of polygamy,etc, and you answered that you talked with members with reference to sealing? A-Yes sir.

367 Q-Now I will ask you if you know whether or not this was the doctrine of sealing a mans wife to him for eternity,and if it was not so understood at the time that these people talked with you about the doctrine of sealing? A-What is that?

368 Q-I asked you if it was not a fact that the doctrine that you say you heard talked of as the doctrine of sealing,was not the doctrine of sealing a mans wife to him for eternity,and if that is not the doctrine that you heard talked about in that connection? A-Yes sir,I understood that the doctrine of sealing was sealing for eternity,and it was so taught. It was sealing a mans wive to him ,or wives either.

369 Q-What was the doctrine of the original church up to 1844,as a church doctrine,with reference to the question o f marriage? A-In what way?

370 Q-Well was it polygamy or monogamy? That is was the doctrine of the church polygamy or monogamy? A-It was the doctrine of one wive,and one husband"

371 Q-It was the doctrine of monogamy,-that is aman was permitted to have but one wife?- A-Yes sir. It was the one wife doctrine at that time,-there was never any other doctrine in the original church that I know of.

372 Q-It was the one wife doctrine,and that was the way it was understood? A-Yes sir.

373 Q-What ever changes of that doctrine in that respect that was made,was a change of the doctrine of the church,was it not Mr Briggs? A-In what respect?

374 Q-And change from that doctrine,-? A-Yes sir,I so understand it.

375 Q-You united with the church in 1841 I believe you said? A-Yes sir.

376 Q-And you remained with it? A-Yes sir.

377 Q-You have been amember of that church,- the same original church as I understand it right along until the time of your ~~xxx~~ seperation from the church in 1885? A-Well I have been. Yes sir I have accounted my self a member of that church from that time on,but I have been in different organizations at different times as I have already stated,but when in each of these organizations I supposed I was under the church. When I found out that they were teaching ~~xxxxxxxxxxxx~~ or practicing anything that was not authorized by the church prior to 1844 as the law is set forth in the bible,the book of Mormon,and the book of doctrine and covenants,why I left it at once Now at the time,as I have stated,that I belonged to those different organizations I always supposed they were the true and direct descendant of the original church,and as soon as my error was revealed to me I left them,-I left them as soon as I found they were not under the church.

378- Q-Now these parties whom you mentioned as having been made members of that original church,under your administration in Wisconsin,and afterwards united with you for a short time under the banner of some of these other men,was not the true church,-did not pretend to be the true church? A-No sir.

379 Q-But it was their belief and faith all the time,- of all these parties that acted under your administration,in joining these various organizations,when they joined them that they were representing the original church? A-I do-not understand the question, but if it is that when we joined those organizations of James J Strang and William Smith,that in so doing we were uniting with the original church,we undoubtedly did.

380 Q-That was their faith and belief? A-Yes sir.

381 Q-I believe you stated that you joined the church or organization led by Strang? A-Yes sir,-James J. Strang was looked upon as its leader.

382 Q-Now when you joined the organization that was led by James J Strang,in what sense did you accept him as the leader? A-Why as the head of the church,-as the successor of Joseph Smith the prophet in the Presidency of the church. That is the sense that I accepted him as the leader.

383 Q-~~Now when you joined the organization that was led~~ by James J Strang,
~~xxxxxxxxxxxxxxxxx~~

~~Q-For what period of time? A-What is that~~
Q You accepted him as the President of the church then
A-Yes sir,-as the successor of Joseph Smith in the Presidency of the church.

384 Q-For what period of time? A-What is that?

385 Q-For what period of time? A-Well I don't understand

now what you are driving at. "For what period of time ,-I think you will have to make your meaning clearer before I can answer that question.

386 Q-Well I mean this,-for what period of time was he to be the successor of Joseph Smith,according to his own teaching? A-Well in accepting James J. Strang as the head of the ~~xxxxx~~ church we accepted him as being the regular,genuine successor of Joseph Smith"

387 Q-Well for what period of time was he to be the successor of Joseph Smith? A-For the period of his life,-while he lived.

387 Q-While he lived,he was to be the head of the church A-Yes sir.

388 Q-Now that is your understalding of it? A-Yes sir.

389 Q-Now let me refresh your memory on that point? Do you not know that his teaching was that he was appointed until the seed of Joseph Smith should fill Joseph Smith's place,and that Strang was to be King when the seed of Joseph Smith should fill Joseph Smith's place? ** I call your attention to,that Mr Briggs for the ~~xxxxx~~ purpose of refreshing your recollection? A-Subsequently to my acceptance of the leadership of Strang that idea crept out.

390 Q-What idea crept out? A-That idea of claim of what over it was called,about his successor,but I always understood that Strang claimed to be the legitimate successor of Joseph Smith by virtue of an appointment that he had received from Joseph Smith himself to be his successor.

391 Q-It was through and by virtue of that letter of appointment from Joseph Smith,that he claimed to have received? A-Yes sir.

392 Q-That was what ~~you understood~~ you understood his claim was based upon? A-Yes sir.

393 Q-And as soon as you-and the other saints that had joined his organization found out that he was teaching other things that ~~xxx~~ what ~~xxx~~ had been taught in the original church,why then you discarded him? A-Yes sir.

394 Q-Now you were asked by what authority Zenas H. Gurley raised up the branch at Palestine,and you answered that you thought he was a member of the Strangs church? A-Yes sir.

395 Q-I will ask you if he was not authorized as a minister in the original church of Jesus Christ of Latter Day Saints before the death of Joseph Smith A-Yes sir,he was.

396 Q-What office did he in fact hold in that church? A-Well he was an elder at least. I do not know of anything else.

397 Q-Was he not one of the Seventy? A-I am not aware that he was,and still he might have been, Let me see, -very likely he was,but still I don't know that he was. He was made a President of the seventy after the death of Joseph Smith. I think from that that it is altogether likely that he was a seventy before Joseph Smith's death,but still I do not know it.

398 Q-As such an officer he had a right to raise up that church or branch,did he not aside from any authority that he might have received from Strang? Would not that be true Mr Briggs? A-Well he was an elder in the original church,-there is no manner of question about that,and that would give him the right. Now I say he was an elder in the original church,but whether joining with Strang validated that eldership that is a question to be determined I suppose if possible,but I will say that at the re organization and at no time since as far as my knowledge goes,have we understood that it did.

399 Q-Well now do you not know any way,that he was simply acknowledged,-

that he was only acknowledging Strang as simply the leader of the church for a short time,and until he found out his pretentions and claims,then he rejected him? A-I do not understand that question.

400 Q-Now do you not know that Gurley simply acknowledged Strang as his leader and the church for a time and that when he found out his pretentions to be the leader of the church during his life,that then Gurley rejected him and his leadership? A-Yes sir.

401 Q-And was that not also true of William Smith? A-How is that?

402 Q-I asked you if that was not also the fact with reference to William Smith? A-In what respect?

403 Q-That you simply looked to him and accepted his claim for a short time,and that then when you found out what his pretentions were,and that they were false,you repudiated him? A-Yes sir,

405 Q-And it was so in the case of the others was it not A-Yes sir,I so understood it to be. I suppose that is the case,but of course I cannot speak positively only with reference to what happened in my own experience.

406 Q-You did not understand that your authority ~~there~~ to build up the church there was derived from Joseph Smith did you? A-At what time?

407 Q-At any time,-when you belonged to his organization or at any other time? A-No sir I did not.

408 Q-I will ask you now if it is not a fact,that so far as the church of Jesus Christ of Latter Day Saints in 1844 was not split to pieces was it not as a body, and divided into numerous factions? A-At what time?

409 Q-At the time that you belonged to Strangs faction or organization,and also at the time that you belonged to William Smith's organization? A-Yes sir.

410 Q-That was after 1844 that the church split up into these different ~~organizations~~ factions? A-Yes sir.

411 Q-This people with whom you were associated up there, were a people who were contending for the ~~right of the~~ original doctrines of the church? Is that not a fact?,-that they were constantly contending for a maintanance of the original doctrines of the church in their purity? A-Yes sir.

412 Q-Now when you say that you withdrew from Brigham Young and these others,you mean simply that you repudiated them? A-Yes sir,-

415 Q-You repudiated their ~~xxxx~~ claim to rule the church as false,and their system and doctrine as heretical, and false? A-Yes sir, I repudiated their claims to the Presidency as false,and that they were not entitled to govern the church,and on the ground that they were teaching false doctrines,and something that the church did not authorize.

414 Q-When you say that you withdrew you mean,that you just repudiated them? A-That is all.

415 Q-You do not mean to-say that you withdrew from the church? A-No sir,not from the ~~xxxxxxxxxxx~~ true church,but I refused to have anything to do with the church as ~~represented~~ by them,-that is by Brigham Young and his adherents.

416 Q-And further you were claiming all the time that you were following the church in succession from 1830,-or were following what represented the church in 1830,-did you not so claim the fact to be? A-Yes sir.

417 Q-That is what you claimed,-that the church was the church in succession established in 1830? A-Well undoubtedly we did, I did I know.

418 Q-You still claimed that you belonged to that church? A-Yes sir I did I know,although we were under different leaders we still claimed that we belonged to the original church,and as soon as we learned that any of our leaders were teaching false doctrine that was not taught in the original church we left it,and that was the reason we left Strang and Smith,because we considered that they were teaching false doctrine, or doctrines that were not authorized in the original church, Itdid not make any difference to us,for we still considered that we were in the ~~original~~ church although under these different leaders.

419 Q-Well now I will ask you in reference to this new movement,-did you consider that was a new movement in the way of organizing a new church was concerned, or was it simply a new movement in the way of more perfectly and actively organizing the scattered branches of the original church in a new organization ,which new organization was in succession from the original? A-Well I cannot say for I never called it the new church or the new movement or anything of that kind.

420 Q-It could not be properly called that? A-What,-a new movement or organization?

421 Q-Yes sir? A-No sir it could not be properly called that,for that would mean a new organization of a church,which this was not,at least I never considered it so.

422 Q-Neither did the church as an organization? A-No sir,it was always contending and believed that it was the original church in succession,-that was what we believed at the time that organization was effected,-

423 Q-That was your individual opinion,and that was also the attitude of the church as an organization? A-Yes sir.

424 Q-The church was simply reorganized and placed on a new footing as was necessary after the disruption? A-Yes sir.

425 Q-And you were one of the principle officers in it at that time? A-Well I stated what I was. I stated that I was one of the seven that were chosen.

426 Q-Now at the time of the reading of a paper,-of a paper as you say in the priesthood lodge,at which time,C.F. Stiles,E.R. Briggs and William W. Blair and yourself were present,-is that all that were present? A-No sir,I was asked to give the names of the ones who were present at that time,and who are now living and these are the names that I gave of the ones that were there who are now ~~xxxxxx~~ alive,but there were a great many others there who are now dead you know.

427 Q-Well did these parties whom you have named as being present,including W.W. Blair,-did they accept that doctrine of polygamy"? A-Yes sir, and I could name John Harrington as anoth er one that was present,and Henry Long.

428 Q-Well we do not care about that for they are not living,-are they living? A-No sir,I think not

429 Q-Well if they are dead we don't care about them? A-Well these names I have given you are all living,- that is they all living as far as I know.

430 Q-Do you remember the word" polygamy" was used in that paper?

A-What paper?

431 Q-The paper that was readwas you said at the meeting of that priesthood lodge? A-I don't know whether it was or not.

432 Q-Did you ever see that paper? A-Yes sir,I saw it when it was read to us.

433 Q-Did you ever have a copy of that paper,-that paper that was read to you there that contained the alleged revelation? A-No sir I never had a copy of it at all

434 Q-Did you know any bony who ever did have a copy of it? A-No sir I don't know anything about that. I don't know that there ever,was a copy of it made or taken. I know I have no recollection of ever seeing it but that one time,and I don't know that it-was ever copied.

435 Q-These parties whom you have named as being present, you do not name them for the purpose of showing that they accepted that revelation,do you Mr Briggs? A-No sir,that is not my object at all. I simply name them because I was asked to name who were present and I have given the names of the ones that I recollect as being there.

436 Q-Well did these parties whom you have named,or any of them,to your knowledge ever accept the doctrine of polygamy? A-No sir not that I know of.

437 Q-They did not accept it then? A-No sir,unless sitting there and listening to it being read could be called an acceptance of it.

438 Q-Well they did not accept it to your knowledge? A-No sir,unless being there could be called accepting it.

439 Q-Well did they accept it,-did they pass upon it,and accept it themselves? A-Not that I know of.

440 Q-Was it passed upon? R-No sir,it was not passed upon.

441 Q-Did you accept the doctrine of polygamy? A-It was not passed upon and consequently there was no acceptance to it at all. I know as I have stated that I did not accept it at all,and I don't think the rest did. At any rate that did not do so at that time. It was simply read to us there.

442 Q-So you do not mention W.W. Blair's name here,as being connected with the doctrine of polygamy so far as the practice and belief of it is concerned? A-No sir,I simply mention him as being one that was present and heard it read with the rest of us.

443 Q-Don't you know that it is a fact that the reading of certain things there was the occasion of your repudiation of William Smith,and the occasion of these other men repudiating him too? A-I don't know that that was the sole reason.

444 Q-Well you know do you not that it was one of the things? A-It was the occasion of my being in trouble and was the cause of my cutting loose I presume.

But what influenced the rest or all of the rest who repudiated him afterwards I do not know of my own knowledge. I presumt that that had something to do with it.

445 Q-Well that is all there is on that point? Now you were asked with reference to whether or not the reorganized church ever had a patriarch? A-Yes sir.

446 Q-Now is it not a fact that the same laws were accepted for the government of the reorganization,that were in the original church? Is that not the fact Mr Briggs? A-Yes sir,that is the fact,-at all events we so understood it.

447 Q-And those laws related equally to the reorganization as they

did to the original church? A-What is that?
448 Q-These laws I say applied to the reorganization, equally with the reorganized church? A-We so understood it sir.
449 Q-And if there was no patriarch or no baptism for the dead, there was a reason for it was there not? A, Well I suppose so.
450 Q-If they did not have the ordinance of baptism for the dead or a patriarch, xxx there was a reason for it was there not? A-Well there must be a reason of course. Of course there was no patriarch in the reorganized church and no baptism for the dead that I ever heard of.
451 Q-I will ask you to state if the practice of baptism for the dead was stopped at Nauvoo prior to 1844, and during the life of the prophet? A-Was it taught did you say?
452 Q-No, was not the practice of it stopped during his life time,-that is was it not stopped um til proper preparation had been made for its performance in a proper manner? A-Well I do not know that. I only know that it was practiced in 1843, but how long it was continued after that I do not know.
453 Q-If the records show that there was a command, or statement of the First Presidency prohibiting it for certain reasons, until a certain time, why that would be correct would it not Mr Briggs? A-Yes sir, I recollect that there was a statement of that kind, but whether it was stopped I do not know anything about that for I was not there. I was not there after September '43, and it was practiced then.
454 Q-You say at the conference of 1853 I believe that there were certain parties, namely seven, set apart for the office of apostles who were ordainxed in that office and position under and by virtue of the authority of a revelation? A-Yes sir.
455 Q-That is the way they were selected and ordained? A-Yes sir.
456 Q-The authority of the xxxxxxxx ordination there, would be the first revelation would it not,-that would be the prime authority would it not? A-Yes sir, we so understand it at all events.
457 Q-I believe you stated that you met Granville Hedrick at that conference? A-No sir.
458 Q-Then you did not meet him at that conference? A-No sir.
459 Q-What conference was it that you did meet him at? A-It was subsequently,-I dan't fix the date,

but it was subsequent to that date. It was some time after that conference.
460 Q-Well he was in the conference? A-How is that?
461 Q-He was there in your conference? A-He was at one conference. I recollect his being at one conference, but it was not at this one.
462 Q-You are sure it was not at this conference we refer to? A-My memory is that it was not at that conference. Now that is my recollection about it, and I am quite positive that it is correct.
463 Q-Was he not in fact at more than one conference? A-I am not aware that he was,-still he might have been. Yes sir he was, I recollect now that he was at the last conference I attended that year,-that is the conference at Amboy.
464 Q-As a matter of fact he was at two conferences? A-Yes sir.
465 Q-In that first conference, he took part in the proceedings? A-I am not aware th at he did.
466 Q-You would not say whether he did or did not? A-Well I would not say, for there were people there that were not identified with us that took part in the conference in the way of doing some talking

that were not members of the conference, and what they said was simply by courtesy of the conference. There were persons there that were not identified with us that did some talking,but I do not think they did any voting. I know that Granville Hedrick never became a member of the church at all. I think however that he had something to say there at that conference although he did not belong to the church.

467 Q-You do not know whether he voted or not? A-No sir He was never accounted a member of the reorganization,-I know that.

468 Q-And he was never accounted a member of that local church? A-No sir.

469 Q-Did you not pass resolutions at that conference to this effect,declaring that all members of the original church,baptized during the life of Joseph Smith, by proper authority,were proper members of the church? A-Yes sir I think we did for so we held the fact to be.

470 Q-And those who were appointed elders in of the church in the original church could properly take part with you? A- Is that not the fact? A-Yes sir, we so held it.

471 Q-You could not have held any other way could you? A-No sir I could not. That seems to-me to be the logical conclusion,-that all who were legally ordained to office in the original church,or who were members of the old church could legally be members of the reorganization.

472 Q-Then if Granville Hedrick was a member of the original church,he could take part with you,and legally also? A-Yes sir he could but I do not understand that he did.

473 Q-Well suppose that the record of the Con ference does show that,then what do you say? A-The records shows what?

474 Q-That Granville Hedrick did take part in the proceedings of that conference,-if the record shows that,then what have you to say? A-Well my memory as I have stated is that he had something to say there, and that what he said was simply talk that he indulged in at the courtesy of the conference,and that he never did take part with us as a member of the conference. He never did take part with us as a member,-that I know,for he objected to a cardinal principle that we held to.

475 Q-Well was there not a great many objections raised there concerning a great many principles? A-Well there was no serious objection,-

476 Q-Well you did not agree on all points did you,-you did not all agree on all points? A-No sir not on all minor points,but we did on those fundamental principles. There was no objection to any of the fundamental principles that I know of.

477 Q-Well now as far as Granville Hedrick is concerned, he believed in the bible didn't he? A-Yes sir.

478 Q-And in the Book of Mormon? A-Yes sir.

479 Q-And in the book of doctrine and Covenants? A-He did to a certain extent.

480 Q-Did he not accept the book of doctrine and Covenants as published by the church? A-No sir,-not wholly.

481 Q-You have seen his work,-? A-Yes sir.

482 Q-Have you seen his work entitled"The Spiritual wife System proven false,and the true order of church Discipline"? A-Yes sir.

483 Q-Have you read it? A-Yes sir,I have read it.

484 Q-Now do you not know that that work sets out the fact that the book of doctrine and covenants,as published during the life time of Joseph Smith as being one of the fundamental works of the church? A-Yes sir I think so,but still my memory is that he did not accept it wholly, Now that is my recollection of it,for I am pretty positive that he did not accep it wholly.

485 Q-Well was not this action in refusing to accept it wholly a subsequent act of his,-did not that action of his come out xxxxxxxxxxxx after the year 1860 more plainly? A-Well now I will answer that by saying that I labored personally with Granville Hedrick at both of those conferences,and we could not,-he could not be made to see it as I saw it,and as I understood the church saw it,-that is in reference to the matter,and consequently he could not act with us. That was the trouble at that time,-that he could not see it as we saw it.

486 Q-Now then I will read you a paragraph from "Exhibit B" ,on page fourteen,beginning at the words "now then ,and ending with the word"Gentile",as follows,-"Now then,that Zion or the church is not delivered or established in peace,neither clothed upon in righteousness;but is in ex disgrace by her own members, and in bondage of one another,and of the world;and divided,that is,the church,since the death of Joseph has been rent in many divisions under different heads,or parties,being led by the cunning devices of such men as Strang,Brewster,Bishop,Banery,Wm Smith and Brigham Young;in all six prominent parties,besides some other minor ones not necessary to name.

thus has the church strangely deversified and distractedly wandered since the days of Joseph:Brethern you all remember that the Book of Doctrine and Covenants says that Joseph was called to lay the foundation of a great work. Is this the work,that great work that Joseph was called to lay the foundation of so many false doctrines;did Joseph lay the foundation for any of them? Joseph laid out the one foundation;now as there cannot be six or more different doctrines,all in,or on the same foundation,and all built up differently,or in different ways,and be just right. Joseph Smith was called to lay the foundation of a great work. How did he accomplish it? He translated the book of Mormon by the gift and power of God. In it comes forth the gospel to a nation of people once on this continent described to be the descendants of Joseph of Egypt. This book-then contains

the gospel of Jesus Christ to the Gentiles"etc. Now was this not the doctrine of the re-organized church at that time? A-Yes sir,substantially.

487 Q-Now I will read again from page nineteen of the same exhibit,-"and that the Church of Jesus Christ being established again anew,upon the foundation of the apostles and prophets of the Son of God on the 6th day of April xx A.D. 1830,embracing the doctrine contained in the bible,book of Mormon and book of Doctrine and Covenants,for their faith and practice. These three above named inspired volumes was received by the whole church of Christ,as established anew again by Joseph Smith,to be the rock and pillar, and ground work of their faith and doctrine in Christ Jesus,in the first xxxxx days and years of this the identical church of Jesus Christ:hence we have the foundation of this church before us,of which I profess to-be a member". Was not this the position of the reorganization at that time,or the church you had met with in conference there? A-Substantially it was.

488 Q-You recognize what I have read as a part of that book published by Granville Hedrick,do you not? A-I

Well I can't say that I ~~remember~~ read it or remember anything ~~about~~ particularly that was in it, or the particular leaves that anything is on,as I did not own it,and only had it for a little while and glanced through it.rather than read it. I only borrowed it as I did not own it.

Defendants objects to any and all evidence,or extracts introduced as evidence,or for the purpose of refreshing the recollection of the witness,from Exhibit"W",on the ground that it simply purports to be an expression of Granville Hedrick's individual opinion,and he did not have authority to speak for either of the parties to this action,therefore it is incompetent,irrelevant and immaterial.

489 Q-Now you stated in your examination in chief that you had not known the time in the reorganized church, when there was a full quorum of Twelve,and some other quorums;and now I will ask you if the laws of the church do not provide that all quorums shall have different grades of officers? A-Yes sir,the law provides for it? Is that what you want to know.

490 Q-Yes sir, A-Why certainly. I so understand it.

491 Q-Then the reason for not having these quorums full has not been on account of any disagreement between the doctrine of the reorganized church,and the original church? A-I do not quite comprehend the scope of your question.

492 Q-I asked you if it is not a fact that the reason that those quorums has not been full,is not on account of any disagreement of doctrine between the re-organized church and the original church? A-Of course not. I would not think so.

493 Q-It is simply on account of ~~the~~ fact the officers are to be called in a proper way,and others have not been pointed out,- that is the fact in that connection is it not? A-Yes sir,-expediency has been the governing rule or principle in that regard as I understand.

494 Q-And not anything that would show or indicate a difference or distinction in the doctrine and belief of the reorganization as compared with the original church? Is that not it Mr Briggs? A-Well I don't understand it that way at all. I do not understand that to be the case.

495 Q-Now you spoke of baptism for health? A-Yes sir.

496 Q-Was that a prominent feature of the doctrine of the original church of Jesus Christ of Latter Day Saints as you know? A-No sir,I never considered that it was considered essential,-it was simply permissive. It was simply permissable,but I never knew of its being practiced in the reorganized church, ~~but~~ at all. Now I do not say that it never was practiced in the reorganized church,but to my recollection I never knew of its being practiced.

497 Q-And so far as it being a doctrine is concerned, you would not say that it was a doctrine obligatory or permisive in the ~~xxx~~ old organization? A-My understanding is that it was taught as a doctrine that is beneficial,and was practiced at the will of the persons interested,but was not obligatory,-it was simply taught as a doctrine that was beneficial. That is about all that I know about it.,for I never heard an elder or any body else preach it.

498 Q,-That is in the old organization? A-No sir. Nowhere. I have never heard it taught as a present duty,but I have heard it taught

or rather advocated as beneficial, and in that sense it was practiced.

499 Q-Do you know whether Curley's name was ever recorded on the record of Strang's church? A-Zenas H. Curley?

500 Q-Yes sir? A-On what record did you say?

501 Q-I asked you if you knew whether or not Zenas H. Curley's name was ever recorded on the records of Strang's church as a member of that organization? A-Well I don't know about that.

502 Q-You don't know whether it was or not? A-No sir, personally I don't know anything about that.

503 Q-Personally you do not know whether his name was ever recorded on the list of the members or adherents of Strang's church or organization, do you? A-No sir I don't know anything about it. If it was there I know I never authorized it to be put there.

504 Q-Was not your relationship with Strang caused simply from the fact that at that time he was the best light you recognized in the church, and for that reason you joined his organization? A-Yes sir, and that is the way I stated the fact to be. That was the reason I was with him, and I said that as soon as I saw that he was preaching doctrine that was contrary to what I considered and knew to be the true doctrine of the church that I left him at once. I considered that he was the head of the church,-the successor of Joseph Smith by that letter of appointment.

505 Q-You accepted him at first and afterwards-upon; you found out that you were mistaken? A-Well I thought I was mistaken at all events or I should not have renounced his leadership.

506 Q-And so it was with reference to your connection with Gillin Smith? A-Yes sir. I certainly did renounce them as soon as I found out that they were preaching and teaching doctrine that was as I viewed it, contrary to the doctrine as taught in the original church.

507 Q-Now you also stated that there had been some revelations given by or through the present President of the reorganized church of Jesus Christ of Latter Day Saints, that had never been presented to the church? A-Not to my knowledge. They were not presented to my knowledge.

508 Q-You cannot say however that they were never presented to churches? A-No sir I could not say that they never were,-I can only say that they were never presented to my knowledge.

509 Q-Was the doctrine of the original church, and the doctrine of the reorganization the same so far as belief in the fact,-the fact that the bible,-the King James translation of the bible was not a perfect translation, and there ought to be another? A-Of course that was taught.

510 Q-Was it not the President of the original church of Jesus Christ of Latter Day Saints that translated the bible, and that is the Holy Scriptures you referred to in your examination in chief? A-It is so understood that Joseph Smith and Sidney Rigdon translated it and corrected it.

511 Q-And in the reorganized church also recognize that as a standard authority in the church also, do you understand that that would be changing their policy or doctrine from that of the original church? A-Oh no, as a matter of course it wouldn't.

512 Q-That would not in your opinion constitute a change of doctrine or policy from that of the original church? A-No sir.

5I3 Q-Does not the reorganized church recognize the King James translation of the bible also? A-Yes sir.

5I4 Q-It not only recognizes it but it uses it in the services does it not? A-Yes sir it is recognized ~~by the church and used by the elders. There is no question about that. I think I have already clearly~~ by the church and used by its elders. There is no question about that. I think I have already clearly stated that, for I stated that at the outset of my examination that at the time of the conference at which the organization was effected, or put on foot, we then declared at the very outset, that we accepted the Bible, the Book of Mormon and the Book of Doctrine and Covenants as the law for the guidance of the church, and of course the Bible that we accepted was the King James translation for we did not have any other at that time. That is the translation of the Bible that we meant in our acceptance of the Bible as one of the books of doctrine.

5I5 Q-You refer to the King James translation? A-Yes sir

5I6 Q-Is it not the policy of the church, and has it not always been that the elders could use any and every translation? A-I understand that they have that privilege. I have never been required to use any other translation, -I mean to say that I have never been required to use any other translation that I am aware of.

5I7 Q-You have not been required to use any one translation to the exclusion of the others, either, have you A-No sir, not that I am aware of I have never been required to do so I know, nor I don't know that I have ever heard of any one else who has.

5I8 Q-For you stated that it was Joseph Smith and Sidney Rigdon who translated and corrected that, -that is the new version? A-Yes sir that is my understanding of it.

5I9 Q-Was it not Oliver Cowdery? A-I understood that it was Sidney Rigdon.

520 Q-Well do you understand of your own personal knowledge, do it was? A-I only know from the records, and the Book of Doctrine and Covenants shows that it was Joseph Smith and Sidney Rigdon who were appointed to do the work, for the original church established in 1830.

52I Q-Under Cowdery's work was it in reality, -was it the work of the original church established in 1830 or was it the work of the reorganized church. -I refer to the translating of the scriptures, -was it the original church established in 1830 or was it the work of the reorganization? A-It was the work of Joseph Smith and Sidney Rigdon who were members of the original church, that is they were members of the original church organization.

522 Q-And Presidents of the original church, too, were they not? A-Well they belonged to the first Presidency, -Joseph Smith was the President, and Sidney Rigdon was his counsellor as I understood it.

523 Q-And was not the revelation containing that, accepted as authoritive by the original church? A-Yes sir of course, I think it is the first edition of the Book of Doctrine and Covenants, and that was accepted by the General Assembly.

524 Q-You stated that when you were with William Smith at first the claim was made, that the seed of Joseph would eventually come forth? A-Yes sir.

525 Q-That was the statement that was made? A-Yes sir.

526 Q-I will ask you if it was not really the belief of all such

Latter Day Saints,-all bodies of the Latter Day
Saints,to a certain degree,so far as your knowledge
goes or extends that the seed of Joseph Smith was
the proper persons to occupy their fathers place in
time? A-At what time?
527 Q-After the death of Joseph Smith and up to the time
that the present President of the re-organized church
came forward and took his place at the head of the
church,-was it not during that time the belief,-the
almost universal belief,that the seed of Joseph
were the proper ones to occupy their father's place?
A-I think there was an element of that kind that always
was in a greater or lesser degree amongst
the Saints that I had anything to do with.
528 Q-And that element predominated did it not in all the
branches or churches that were re-organized in that
conference that you have spoken of? That is the con
-vention of 1852,-was not that element the dominant
one element in all the different branches or factions
that had representation there? A-Yes sir.
529 Q-What is the idea that they hold to? A-Yes sir
they-were specifically planted on that idea.
530 Q-That was the dominant idea in relation to who was
entitled to be at the head of the church? A-Yes sir
531 Q-And that idea had been with the members of the
church from the very time of the death of Joseph
down to that time,had it not? A-Oh,unconditionally it
had been with a great many.
532 Q-Did you preach you say,to the face of hearing
such talk or gossip in Nauvoo,about a revelation on
plural marriage? A-Yes sir I have heard it talked
about.
533 Q-You would not pretend to identify that polyga-
-my revelation differences published by Brigham Young
A-Not in that?
534 Q-You would not undertake to identify that revelation
that you heard gossip about there at Nauvoo,with the
revelation publication afterwards published by Brigham
Young at Salt Lake City? A-No sir of course I could
not pretend to do anything of that kind,because there
was no particular idea in regard to it,and as I did
not see it or have it read,I cannot say anything a
bout that. Of course I don't pretend,and do not say,
that they were the same. Some of the particulars in
it I did see were given to me.

535 Q-You never heard cards on the streets and x in pri
vate? A-Yes sir.
536 Q-That is the way you share of it? A-Yes sir.
537 Q-You did not hear polygamy taught from the stand old
yes,or from the pulpit? A-No sir.
538 Q-And you did not hear it taught in public at all?
A-No sir,nor at all. It was simply rumor that I heard
-,-that was all. I never heard anyt ing taught about
it publicly from the stand or in any other way.
What I heard was from individuals in their own houses
-,-elders and members of the church,and that like.
539 Q-Well they did not teach polygamy did they? A-Poly
-gamy was never named at all,-it was so long what
they called it,and did not say anything about polyga
-my.
540 Q-Sealing,was what you heard talked about? A-Yes sir
541 Q-It was sealing for eternity? A-Yes sir sealing
for eternity,-sealing for time,and for eternity also
542 Q-Did you see the paper that claimed to be the revo-
lution at that time? A-The paper on which it was
claimed to be written?

543 Q-Yes sir? A-No sir, I did not see the revelation and was not told anything about its contents specifically,but I heard it in a general way as a rumor more than anything else,-a rumor that there was such a revelation in existence.

544 Q-Then you did not see the revelation at that time? A-No sir,not at that time,nor at any other time since then. I never saw it at all.

545 Q-Do you know whether or not your brother Silas Briggs was ever connected with any of the factions that were formed out of the church,prior to his uniting with the church,or the conference that culminated in that ~~xxxx~~ reorganization? A-Well he acted with the twelve that was formed under the leadership of James J Strang,and he accepted in some sense or in one degree the leadership of James J Strang,but he could not be ~~xxxxxx~~ really called an active member of that organization.

546 Q-Was he ever a member in reality? A-Well I really do not know whether he was or not.

547 Q-Well ~~xx~~ was he a member of the individuals who accepted Strang? A-Well I know that he was accounted as one who accepted the leadership of James J Strang. I mean he was t'ere at different times and of course it could be said that he was a member of that organization.

548 Q-In order to refresh your recollection regarding this matter,I will call your attention to the testimony of Riley H. C. Briggs given in this case,in which he stated that his brother Silas(who would be your brother of course)was never identified at a meeting with them,now in the face of that statement could you say that he was? A-I haven't said that he was.

549 Q-Well I understood you to say that he was? A-You have misunderstood me,for I did not state that he ever formally united with Strang. He acted I think with the body that he represented,but I do not know that he ever formally united with that organization.

550 Q-Well then you cannot state,that all of those parties that took part in that conference had been connected with some other branch of the church? A-I cannot say. I have not stated that all or them did. If I did,-and I have no recollection of such,-I did not mean to make the statement in that way,but I will say now that while I do not ~~xxxxxxxxxx~~ know that

such was the fact,yet I do not know of an exception. There may be an exception,but if there is I do not know of any.

551 Q-And these parties that you mention as having taken part,you do not know or understand that they had left the original church at all,or any of them? A-No sir,I simply gave them the same credit that I asked for,-that is the credit of good intentions.

I do not know I said of any that had not joined some of these different organizations,and In joining them I expect they each at the time believed it was the church all the time,-that is that each of them at the time believed it was the true church they were joining ,and that they were in the church all the time I cannot say of course as to the secret motives in their breast that impelled them to join these factions or organizations,but I know that in my action in doing so I thought it was the church that I joined,else I should not have joined them.

552 Q-They were simply members of the original church, and were looking for the proper leader of the church?

Is that not the fact Mr Briggs? A-I suppose so. As I said before I cannot say as to the secret motives that impelled them,but I know as to the"Stanwites". I for one believed for a time that we had the true leader,and then I satisfied my self that I was mistaken I left him.

553 Q-All those parties had one a leader.-I mean ~~that~~ had been members of the original church,and after the death of Joseph Smith they were looking for the proper leader of the church? A-Yes sir,that is the way I understood it.

554 Q-And you thought that you had found the true leader in Mr Strang? A-Yes sir.

555 Q-And as soon as you found out it was not so,you then withdrew? Leaving? A-Yes sir.

556 Q-And you did not understand that you left the original church when you left Strang? A-No sir I do not understand it that way,and never did.

Re-direct examination by Mr Hill.-

557 Q-I will ask you to state Mr Briggs,if after you left the recognized church,you found out,-or at the time you left it, you found out that you had been the same kind of a church member,that you had been with Joseph Smith being the leader of the church,that you had made title papers to Strang as the leader,on both occasions? A-No sir.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,not proper re-direct examination,and calls for an opinion of the witness only.

558 Q-You may answer the question? A-What is the question.

559 Q-I mean if you were mistaken,-I will ask you to state whether or not you found out that you made mistakes in regard to what you found out in regard to the claims of Strang,Joseph Smith,the proper leaders of the Reorganized church of Jesus Christ of the Latter Day Saints,-whether or not you made the same mistake as you thought you found out in regard to his claim,the same as good as head of the church,when you had made the case of Strang? Counsel for the plaintiff objects to the question asked the witness for the reason and on the grounds set forth in the preceding objection.

A-Do you want me to answer that question?

560 Q-Yes sir? A-Well if it is necessary for me to answer it I could do so.

561 Q-Do you decline to answer that question? A-Well that is a question that I could answer yes or no,I cannot answer it either yes,or no,~~xxxxxxx~~ and do myself justice,or you justice,but I can answer it if I have to.

562 Q-Well just answer it in your own way? A-I have already stated substantially why I withdrew from the organized church, I have already stated that,and now I do not conceive that it is necessary for me to state that there were other reasons,for there may be other reasons besides that,but not questions or reasons necessarily involving the Presidency,for that is a matter that did not figure in reference to my withdrawal from the church,-that point did not figure at all when I withdrew.

563 Q-I will ask you to state whether or not you still consider yourself to be a member of the church? A-In what way?

564 Q-Well in any way? Do you still consider yourself a member of the church in the same sense that you considered yourself to be a member of the church when you repudiated Strang's organization or William Smith's organization? A-Do I still consider myself a member of the original church? Is that your question.

565 Q-Yes sir, a member of the original church in the same sense that you considered yourself a member of the original church at the time that you left Strang's organization or William Smith's organization? A-I do not know how to answer this question.-

566 Q-I mean a member of the original church that you joined in 1841?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and calls for an opinion of opinion by the witness.

567 -Answer the question or bring it? A-Well now I do not for I have decided in my own mind that I am not a member of the church. I will state to relieve this complication that I do not now consider myself a member of any church at the present time.

568 Q-I will ask you to state,-as you were asked the question in your cross examination,-I will ask you to state whether or not W. W. Blair,-whether you know that he was ever a member of William Smith's church after this revelation had been presented at the meeting held in which you spoke, at which it was presented, upon which it was read, concerning the plurality of wives? A-Yes sir it is my understanding that he did though for some time. I know that after I left William Smith's organization I received a letter from Mr. Rockwell for the step I had taken, and consequently I infer that he was then in William Smith's church, for he wrote in the interest of William Smith and he scarcely could have done that had he not been in his church. I received that letter some time after I had left William's church or organization.

569 Q-And subsequent also to these meetings that you have referred to,-this meeting where the revelation on plurality of wives was read? A-Yes sir of course it was subsequent to that?

Counsel for the plaintiff objects to the questions asked the witness for the reasons and on the grounds that it is not re-direct examination, and immaterial, and to the answer of the witness on the same grounds, and moves the court to exclude it from the record for that reason.

570 Q-I will ask you to state whether or not this letter that was written to you was in regard to rejecting the revelation on plural marriage

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and does not call for the best evidence,-the letter itself being the best evidence-, and counsel for the plaintiff demand that the letter itself be introduced before the witness is interrogated about it.

571 Q-You may answer the question? A-Well now I am not aware, and I do not think,-in fact I am quite sure that none of his letters ever referred to that particular document,-that is to that revelation, but I was rebuked not for the rejection of that, or the slighting of it, but for rejecting William Smith. That was the subject of his complaint, and what he objected to-,-the rejection of William Smith.

572 Q-Now you were asked in your cross examination, if there was not a resolution passed, recognizing, or urging the members of the church

all that had been members of the old church,and who had not departed from the original faith? A-Yes sir

572 Q-I will ask you whether or not the church or that gathering, there,could by resolution make ~~[illegible]~~ members of that organization that ~~[illegible]~~ was cut off there in 1853 without their consent? A-No sir.

574 Q-A resolution could not do-that? A-No-sir,we never held to the idea that we could hold or claim a member against his will. That was an ~~x~~ idea that I never heard advanced in the church at that time or since; but we did hold then and all the time since while I was a member of the church,that all who were eligible could come in,and all the members duly baptized by proper authority in the old church could come into the reorganization if they had not departed the faith or then they could come in by being re-baptized ,but all of members who had remained true to the faith,could come into the reorganization on their original baptism.

575 Q-Provided they would not take baptism? A-Yes sir of course.

576 Q-You were asked in regard to the ordinance not being filled,and if there was not a law providin , for it? A-Yes sir.

577 Q-Now I will ask you to state whether or not the practice of the old church in regard to filling a ordinance, the practice of the reorganized church in that respect is not different? A-How is that?

578 Q-I asked you to state if it is not a fact that the law of the old church and its practice in regard to the filling of ordinances in the church,and the practice of the reorganized church in the same regard is not different,-that is if the law and practice of the reorganized church in that regard is not different from the practice or law of the old church? A-Well I could not say as to that only from what I am

I've learned from the records of the old church, or the first organization. I always understood that there was a similarity,but I supose there was a difference in some respects,and I presume there was.

579 Q-I will ask you,in-as-much as that ~~[illegible]~~ question has been asked you on cross examination,to state whether or not,-if there was a law requiring baptism by immersion for the remission of sins in the old church,and that was practiced in the old church, out there was a law in the reorganized church requiring baptism by immersion for the remission of sins but that was not practiced in the reorganized church ,whether the reorganized church could be the same in doctrine and practice as the old church was? A-I do not understand that question,-you will have to repeat it.

580 Q-I asked you if there was a law requiring baptism by immersion for the remission of sins in the old church,and that was practiced in the original church and there was a law in the reorganized church requiring baptism by immersion for the remission of sins. and that law was not practiced in the reorganized church whether in that or not the reorganized church would be the same in doctrine and practice that the original church was? A-Well most assuredly I would think it would not be the same in that respect as it is. I would not think it was the same in that respect most assuredly.

581 Q-Well I will ask you to state whether or not it is a fact,that it was the doctrine and practice of the old church to have twelve apostles,and it is the doctrine and practice of the reorganized church to

have twelve apostles,and they do not have twelve apostles,and never have had twelve apostles,whether the practice of the reorganized church is the same in that regard as it,-was the practice of the original church?

Counsel for the plaintiff objects to the question asked the witness on the ground, and for the reason that it is" presumptuous doctrine to be the practice of the original church,which is not true in fact,not correct,according to-the record", and the question is there for incompetent,and irrelevant".

A-I understand to have always understood and the practice I have always understood so far as my knowledge goes up to the time that I ceased to be a member of it,-or that point,-that there is a law recognizing a quorum, or a certain, or a majority may form a church, or it has not, the practice is regulated according to the rules of business. It is impossible that it could be any other way.

582 Q-Well if it is not, then what of Elder J. Smith,-

A-I do not know.

583 Q-Well very well, was excommunication from the church, the method used, and, at that time, was it a crime of the law? A-There was not for a considerable length of time,-there was not a majority both ways.

584 Q-I will ask you to state whether or not in this church, according to law,-to a trial,-re-instatement,-whether or not the implied terms of the law really do take a majority in the church to do this? A-I do.

Counsel for the plaintiff objects to the question asked the witness on the ground, for the reason that it is incompetent,irrelevant and immaterial.

A-I do not understand that it was done in that way. I don't know that it ever was. It is sufficient that a majority may form a church, and I don't know that it is a matter that ever has been done in any instance in which the church, I cannot say what would be done.

585 Q-The last and the third question which is not re-direct,but as I stated it on my direct examination I will ask you if it is a well established fact in your 2.-direct examination, I want you to state the Bridge it left in the difference between a general conference,and a General Assembly ? A-Well I understand that there is

586 Q-I will ask you to state whether or not to the best of your knowledge there has ever been a general assembly held by the reorganized church of Jesus Christ of Latter Day Saints?

Counsel for the plaintiff objects to the question asked the witness on the ground, for the reason that it is incompetent,irrelevant and immaterial.

A-There has never been as I understand it.

587 Q-That is all?

Re-cross examination by Mr H.S. Kelley.-

588 Q-The laws of the reorganized church provide for calling one,whenever it is deemed necessary by the body, or not,? A-Is that?

589 Q-The laws of the reorganized church provide for the calling of a General assembly whenever the body of the church deem it necessary,do they not? A-Well I don't know. I don't know that the law alludes to it at all,,but I have always understood that it was competent

for the church to call a general assembly whenever it was deemed necessary.to .That has always been my understanding of it,but I do not know that the laws of the church have any reference to it,still they may,-I will not say that they do not.

590 Q-The laws of the reorganized church upon that subject is just the same as it was in the original church,is it not? A-Well as I said I do-not understand that the law authorizes it in every case just specifically.

591 Q-If it did in one case,it could in another wouldn't it? A-Of course,-there is no question about that.

592 Q-Was there ever any general assembly in the original church during the time that you were a member of it from 1841 to 1844? A-Well not that I am aware of sir. I don't think there ever was.

593 Q-That is all.

[illegible]

[illegible]

you have lived? A-In Wisconsin?

I5 Q-Yes sir, or before you went to Wisconsin,-just state all the places that you have lived during your life ~~time~~? A-Well I lived on Beaver Island at the north end of Lake Michigan, and moved from there to Wisconsin.

I6 Q-Will you say where when you first moved to Beaver Island?

I7 Q-As near as you can remember? A-Well as I say that is hard to tell for I have not had occasion to figure out, but as near as I can remember now I think I went there in 45,-either '46 or '45,- I could not be positive which of those years it was, but it was either one of them unless I am greatly mistaken. I have too had occasion to figure that matter out or think it over, but I could tell exactly by my books if I would take time to hunt it up.

I8 Q-Where did you live before you moved there? A-To Beaver Island.

I9 Q-Yes sir? A-In Charlevoix county.

20 Q-How long did you live there? A-Well let me see,-I went there in the spring of 246 if my memory serves me right, then I went to Michigan and stayed there until I came to Beaver Island. The dates I could give you exactly if I had xxxxxxxxxxxxxxxx had any idea you would ask them, but I will give them to you any way as near as I can, but of course I can't be sure of them to a day unless I have the records to refer to or my recollection, and then I could tell you to a day.

21 Q-What that is your memory? A-Well I would say two years.

22 Q-State where you lived before you came to Beaver? A-I lived in the town of Troy in Oakland County, twenty miles from Detroit in the state of Michigan.

23 Q-How long did you live there? A-Well I went into that town, maybe, I think it was in '37. I went there from Detroit, and I lived there until I went to Beaver.

24 Q-State, if any, were you a member of any church at that time? A-At what time? When I went to Beaver?

25 xxxxxxxxxx-No, I mean at that time were you a member of any church before you went to Beaver,-what church? A-I have been thought by some I think, in some one, but I am not sure as a member of that church.

26 Q-The Latter Saints church? A-Yes sir, as a member of the church.

27 Q-What church, you say when,-what church do you mean, when you say you were a member of the Latter Saints,-what church do you refer to,-what name was it by then? A-Well it was the name today, we call it the church of Jesus Christ of Latter Day Saints. That was the name that it was known by, in its organization, and the book of Mormon and Covenants.

28 Q-State when you became a member of that church? A-I was baptized in the month of February 1842.

29 Q-In 1842 you became a member of that church did you say? A-Yes sir.

30 Q-State whether or not you were acquainted with the doctrines of that church? A-Yes sir, to my study I will say.

Counsel for the plaintiff objects to the question and the witness

on the [illegible] for the reason that it is incompetent, irrelevant and immaterial, and the witness has not been shown to be [illegible].

31 Q-[illegible] answer the question? A-Well I have [illegible] I would not like to [illegible] my literary [illegible], but I can state [illegible] that I have been very [illegible], very [illegible] religi-[illegible] that I [illegible] very carefully [illegible] their [illegible] very [illegible] [illegible], I [illegible] and [illegible], [illegible].

Counsel for [illegible] object to the [illegible] the witness, [illegible] the court to [illegible] as [illegible].

32 Q-[illegible], if any, of your [illegible] of [illegible], [illegible]?

Counsel [illegible] object to [illegible] the witness [illegible] for the reason that it is incompetent, [illegible] immaterial, and [illegible] evidence.

By [illegible],-"[illegible] it not [illegible] questions. [illegible] objection [illegible] in [illegible], [illegible] that [illegible] the record [illegible] as the [illegible], or [illegible] objection [illegible] [illegible], [illegible] "[illegible]", or [illegible] in [illegible]."

By [illegible],-"That [illegible]."

By [illegible],-"[illegible] not [illegible] plaintiff [illegible] indeed [illegible]."

By [illegible],-

33 Q-[illegible], if any, [illegible] your [illegible] in [illegible] of [illegible]?

By [illegible],-"[illegible] our [illegible]."

A-[illegible].

34 Q-[illegible] or [illegible] by [illegible] your [illegible] of [illegible]?

Counsel for [illegible] objects to the question for the reason [illegible].

A-I [illegible].

35 Q-[illegible] or [illegible] [illegible] of [illegible], [illegible]? A-[illegible] that [illegible] or [illegible], [illegible] truthfully, [illegible] and [illegible] to do. It would [illegible] for [illegible] the [illegible] [illegible] that I [illegible], and [illegible] that I have [illegible] I [illegible] say that I [illegible] than [illegible] right to [illegible]. [illegible] I feel this way, [illegible] I feel that possibly I understand how to answer the questions you [illegible] as well as anybody.

36 Q-Will answer the questions in your own way. Don't pay any attention to the objection of these gentlemen, but answer the questions in your own way? A-What ~~xx~~ was the question?

37 Q-I asked you to state whether or not as an Elder, you were familiar with the regulations and rules of the church of Jesus Christ of Latter Day Saints, and its teaching, at the time of the death of Joseph Smith?
Counsel for the plaintiff objects to the question, and uses the following in making his objection,-"We think it is not material or pertinent to the issue in this action, for the reason that it is immaterial and incompetent, and the witness has not shown his competency to answer the question."
A-I will say I studied the rules and regulations, but I did not remember about it. I was a little over after I joined the church. I joined it in a boy, 1842, and I was baptized the 27th of June 1842, and I was ordained that in two years, this I was ordained to be an Elder in two years, and at the time I was not familiar with the rules and regulations.
38 Q-I will ask you to state whether or not you are in the habit of reading the newspapers, in the ordinary course of events, or as President of the church? A-Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial and irrelevant and incompetent, and the witness answers as follows:
A-I do not give my opinion, in the newspapers. I start, when I know about it,-I state that I never kept to be said on that subject.
39 Q-We'll make it you can, who was the successor of Joseph Smith after his death in the office of President of the church? A-The Court will have to decide that question. I think Brigham Young old and a little deaf,-for I can not hear as well as I once did, and I am liable to misunderstand your questions. If I understand right, I am asked who the successor was, if I know who was for Smith's successor?
40 Q-Yes sir, that is the question? A-Yes sir, I do.
41 Q-We'll state who it was? A-James J. Strang.
Counsel for the plaintiff objects to the question for the reasons above set forth, and to the question for the same reasons, and moves that it be stricken from the record for same reasons.
42 Q-I will ask you to state, if you can, how you know that James J. Strang was the successor of Joseph Smith as the prophet and President of the church of Jesus Christ of Latter Day Saints?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial and irrelevant and incompetent, and

calls for an opinion of the witness, and is cross examination. [illegible]

Sou

46 [illegible]

47 [illegible]

48 [illegible]

49 [illegible] came from [illegible] and [illegible] the [illegible] provision for [illegible] is [illegible] word- [illegible]

Com [illegible] any [illegible] d

50 [illegible]

51 [illegible]

Coun [illegible]

want [illegible] recol- [illegible]

verily, [illegible] I say unto you, that [illegible] hold, [illegible] for a law unto my [illegible] I have [illegible] revelations and [illegible]

ly, [illegible] shall [illegible] word- [illegible] give [illegible] in me.

But verily, verily, I say unto you, that [illegible] shall be [illegible] unto this gift except it be [illegible] for [illegible] if it be taken from him he shall not have power [illegible] to appoint another in his stead; and this shall be a law unto you, that ye have not the teachings of any that shall come before you as revelations, or commandments, and this I give unto you, that you may not be deceived, that you may know they are not of me. For verily I say unto you that he that is ordained of me shall come

in at the gate and be ~~baptized~~ ordained as I have told you before, to teach those revelations which you have received, and shall receive through him whom I have appointed."

52 Q-I will ask you to state Mr Hickey whether or not this extract you read from exhibit "J", is what you understood to be the law governing the church before the death of Joseph Smith? A-Yes sir.

Counsel for the plaintiff objects to the question asked the witness on thy ground and for the reason that it is leading, incompetent, irrelevant, and immaterial, and calling for an opinion of the witness".

Q-Why of course it is,-there can be no question of that for here it is in the doctrine and covenants.

53 Q-Now I will ask you to read on page one hundred and thirteen in the same exhibit the third paragraph in section twenty six?

Counsel for the plaintiff objects to the question for the same reason above set forth.

A-"And also with Peter and James and John, whom I have sent unto you, by whom I have ordained you, and confirmed you to be apostles and especial witnesses of my name, and bear the keys of your ministry and of the same things which I have revealed unto them; unto whom I have committed the keys of my kingdom, and a dispensation of the gospel for the last times; and for the fulness of times, in the which I will gather together in one all things, both which are in heaven and which are on earth; and also with all those whom my father hath given me out of the world; wherefore, lift up your hearts and rejoice, and gird up your loins, and take upon you my whole armor, that you may be able to withstand the evil day, having done all ye may be able to stand. Stand therefore, having your loins girt about with truth, having on the breast plate of righteousness, and your feet shod with the preparation of the gospel of peace, which I have sent mine angels to commit unto you, taking the shield of faith wherewith ye shall be able to quench all the firey darts of the wicked; and take the helmet of salvation, and the sword of my Spirit, which I will pour out upon you, and my word which I revean unto you, and be agreed as touching all things what-so-ever ye ask of me, and be faithful until I come, and ye shall be caught up that where I am ye shall be also. Amen."

54 Q-I will ask you whether or not that is what you understood to be the law governing the ordination of the successor of Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is leading and calld for an opinion of the witness, and is incompetent, irrelevant and immaterial,.

A-Yes sir.

55 Q-That is what you understood to be the law regulating the appointment and ordination of a successor to Joseph Smith? A-Yes sir.

56 Q-Now I will ask you to state to the reporter, whether or not James J. Strang was appointed by Joseph Smith to be his successor?

Counsel for the plaintiff objects to the question for the reasons above set forth.

A-Yes sir, he was.

57 Q-I will ask you to state whether or not he claimed to have been ordained according to this law which you have read from exhibit "J"?

Counsel for the plaintiff objects to the question for the reasons above set forth.

Q-Yes sir he claimed to have been ordained according to the terms of that law in the same hour that Smith was shot on the 27th day of June 1844.

with Mr. Strang as a prophet, and don't say anything about what you read, just state what you know within your own experience?

58 Q-He claimed to-have been ordained on the same day that Smith was shot,and at the same hour,-is that what you stated? A-Yes sir.

59 Q-I will ask you to state,if you can,what evidence he gave to the world,or to you,that he was a prophet?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immeterial,and hearsay.

A-I will answer your question in the Yankee way. I read the debate between Kelley and Clarke Braden,and Mr Kelley proclaimed to the congregation and Mr Braden,that he knew Mr Smith was a prophet,and the book of Mormon of divine origin. I read his debate,and I learned it by theory,and a train of circumstances, and I used it to establish thais answer to this question,-

Counsel for the plaintiff moves the court to exclude the answer of the witness from the record on the ground that it is not responsive to the question.

A-Well I have not finished the answer yet,for I know what I am talking about from my own criticism.

60 Q-Well that will do,-State what you know from your own experience?State what evidence he gave to you that he was a prophet and the President of the church

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and not the best evidence,and the answer called from the witness is hearsay and does not have any possible connection with,or bearing upon the issues involved in this case.

A-I am aware ~~that the courts~~ of the fact that the courts when I was a boy required of a witness what he knew personally of his own knowledge and the moment you came on the witness stand and told what some body else had told you he was stopped,and not permitted to tell what others had told him,but I notice in the courts now a days,you are asked to testify to the best of your knowledge and belief,and I will say that I can answer this question in two ways,-first,Ihave evidence myself,personally,by being right there where he was ordained,-right on the ground,and taking into consideration the circumstances,and examining the witnesses that were there,and taking into consideration certain things that were devoloped there and talking with them,and they gave me their testimony. I remember,to illustrate,that one of these witnesses was digging potatoes when I went there to satisfy myself as to-whether Strang had published the truth regarding the circumstances regarding these plates,for this man was one of the four men who was employed to dig out the casement from under the roots of the trees,-the casement that contained these ancient records that were put there before the tree grew. He told me that Mr Strang told these men that if they would dig up the ground all around to see that they were not imposed on they would find that it was old soil that had not been removed or moved before,and they did so,and it had every appearance of being firm soil,and then Mr Strang told them that if they would cut the tree down and dig it up they would find the casement,and they man that told me about it said that they did do so and he took up a ~~up a~~ potato

in his hand,and twisted his fingers around it and hold it up,and said there was the casement under that tree with the roots of the tree around it just as my fingers are around that potato in my hand,and he said "it was with a good deal of difficulty that we got that casement out of the roots,for we had to remove it with a good deal of trouble,which is evidence to me that the casement was there before the tree grew", and the fact that it was told to me in so earnest a manner,is evidence to me that it was there.Now that is what he told me,and I believe, they were there just as he stated to me,and it is also a fact that the inscriptions on these plates were afterwards translated,and I have a fac simile of these plates that were taken by a photagrapher in Chicago,and Mr Stran g's son has the original plates to day in Lansing,Michigan,the capitol of our state,for he is quite a prominent man,-the editor of a paper there and post master. Now you need not object to that, for I know I am not answering the question now,for I know that what I have said,while it is satisfactory evidence to me migh t not be so satisfactory to the court.

By Mr P.P. Kelley,-"Well you ought to be careful about what you say for everything you say is going down on the record? AWell I don't care about that. I did not mean this to be taken as evidence but I don't care if it does go down on the record. How the question if I understand it,that was asked me,is what evidence I have?

By Mr Hall,-

61 Q-Well that is the question? A-Well I have given it to you.

62 Q-Well that is sufficient?

Counsel for the plaintiff moves the court to exclude the answer of the witness from the record for the reason and on the grounds that are set forth in the objection to the question to which it is an answer.

63 Q-What evidence have you that Mr Strang was ever appointed as Joseph Smith's successor?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading,incompetent,irrelevant and immeterial,and calls for hearsay testimony.

64 Q-How he came to be Joseph Smith?s successor? A-Well he was appointed by a letter,-a letter that Mr Smith wrote to him making him his successor.

65 Q-I will ask you to look at this book which I now hand you,and state what it is'(The book referred to is marked exhibit"100") A-Well that is a fac simile of the plates that Strang found,which was taken from the plates in Chicago.

By Mr Kelley,-"That question and answer are both objected to,as incompetent,irrelevant and immeterial,and there is no issue in this case under which such testimony as is called for is legally admissable".

A-You will understand that there was only three plates,and that is a photagraphic reproduction of both sides of them.

66 Q-You may state what that book is? A-This is the "Diamond",and it is a work that Strang published at the time that he claimed to be the successor of Joseph Smith,and in it he set forth his claim to be Smith's successor to the world.

67 Q-Well now state what that is right there,-read that on this page? Commencing there read that?

Counsel for the plaintiff objects on the ground that it is irrelevant and immeterial,and for the further reason that the ~~pages~~ or book or whatever the witness is asked to read from,had not been in any manner,shape or form identified or sought to be identified?

A-Do you want me to read the letter itself?

68 Q-Yes sir? A-"The appointment of a successor and place of refuge. Letter of Joseph Smith to James J. Strang. Nauvoo June 18th 1844.

By Mr Kelley,-"We object to this witness reading this letter,or alleged copy of a letter,for the further reason that it is not the best evidence,and there is no testimony from the witness to the effect that the letter was ever written by Joseph Smith,and it is not in the hand writing of Joseph Smith or any body else,but is in print,therefore it is incompetent,and hearsay."

69 Q-I will ask you to state Mr Hickey if you can recollect whether or not the original letter of appointment of which that purports to be a copy,was the same as that copy there? A-Well all I can say in answer to that question sir,is that the parties that have it in their possession wrote me,-you ask me if that is a copy of the original of which it purports to be a copy and I will state that I believe it is. Now with reference as to where the original is I was going to state that the parties who have it in their possession wrote me a month or so ago that they had it in their possession and they live at Lansing the capital of the state of Michigan.

70 Q-State who these parties were? A-Well Mr Strang's oldest son is the man.

By Mr Kelley,-We move the court to strike from the record all the evidence of this witness regarding the book or paper referred to,on the ground that it is incompetent,irrelevant and immeterial.

By Mr Hall,-

71 Q-I will ask you to state whether or not you accepted the claims of Mr Strang to be the head of the church, after the death of Joseph Smith? A-What is that?

72 Q-I asked you to state if after the death of Joseph Smith you accepted the claims of James J Strang to to the Presidency of the chruch of Jesus Christ of Latter Day Saints,and if so when you accepted his claims in that respect? A-I did.

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immeterial,and leading.

A-Yes sir I did.

73 Q-When? A-When did I accept him as the President of the church?

74 Q-Yes sir? A-It was in February I guess,-or in the winter of '46 some time. Yes sir it was in the winter of '46,I think in February.

75 Q-I will ask you Mr Hickey,what you know about the elders of the church before the death of Joseph Smith being instructed to electioneer for him the President of the United States?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent,irrelvant and immeterial,and"on the further ground that a man has a right to ask his friends and neighbours to electioneer for him,and has always had that right in this country."

A-What is the question?

76 Q- I asked you to state what you knew about the elders in the church having been instructed before the death of JUseph Smith,

to electioneer for him for the President of the United States? A-I know there were men sent to my section of the country in eastern Michigan from Nauvoo,at that time to instruct the elders in that section to use their influence in electing Mr Smith as President of the United States.

77 Q-How do you know it? A-I know it as well as I can know anything,for I attended a conference I think where they met,-that is where the elders in that district met,and Mr Rich I think was one of them,-I don't remember all of their names,but there was three or four of them in that conference,and I remember that we were instructed to electioneer for Joseph.

78 Q-I will ask you to state whether or not you obeyed the instructions?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial.

A-Yes sir,of course I did sir.

79 Q-I will ask you to staty Mr Hickey,who,if any,of the Twelve Apostles that constituted the Quorom of Twelve Apostles,before the death of Joseph Smith, accepted the claims of James J. Strang,as his successor,-that is as the successor of Joseph Smith?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial.

Q-You have asked me who of the Twelve,after the death of Joseph Smith,accepted the claims of James J Strang as the successor of Joseph Smith,and became identified with James J" Strang?

80 Q-Yes sir, A-Well sir I can tell you what I know about that. I heard John E. Page,standing on the steps of the temple in Nauvoo deliver a lecture in defence of Mr Strangs claims. Now that was one of them who accepted his claims,-at least I do not think he would have spoken in the way he did had he not identified him. I know that William Smith came to Strang,and wanted to be identified with him,for both Page and Smith belonged to the Quorom of Twelve before the death of Joseph Smith. Other than that I don't remember that any more of them did.

81 Q-State if you can,if any other of the officers in the church under Joseph Smith,identified Mr Strang as his successor? A-Any other officers?

82 Q-Yes sir any other officers of any kind?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and immaterial.

A-Well there certainly did,but I would have to get a sheet of fools cap paper to write them down on it.

83 Q-Well just state what you can remember,-just state some of the leading ones? A-Well there was Bishop George Miller,-he was one,and there was Reuben Miller Mr Gaylord,there was Buzzard and Post,-there was two Post's,-they were brothers,-and there was the Wright's and Zonas H. Gurley,-Jason Briggs,Samuel Thornton,William Marks,G.G. Adams,Dr McClellan,and there was a Whitney,I dis remember his given name, George Bronson,Marion M. Aldrich,and his two sons. Now did I understand you to ask me who identified themselves with Mr Strang after the death of Joseph Smith?

84 Q-Yes sir,the members of the church who were officers in the church before the death of Joseph Smith,who after his death identified themselves with James J Strang,and accepted him as the leader of the church? A-Well those names I have given you cometo

my mind as I try to refresh my memory. There were many others,but that is about all that I can remember now I think,but it is hard to remember these things after so many years have passed. It all happened many years ago,but I presume if I had time and a pencil and paper I could write down as many more at least,but I believe that is all I can remember now. Yes I could I have no doubt,for there was Horace Lathrop,-he was one also,and he was a member of the Michigan Legislature too at that time.

85 Q-I will ask you to look at that book,and state what it is? A-This is the Chronicle of the church,-the records of the church under Mr Strang for a part of the time.

(The paper or book above referred to and identified by the witness as the "Chronicle of the church",is here upon marked exhibit "IOI")

86 Q-Mr Hickey you may state how you came into the possession of this record or those records? A-Well sir it was in this way,-at the time of our exodus from Beaver Island I was one of the committee of three that was officially associated with Strang,that was appointed to take charge of the books and papers,as he was in a dying condition when we brought him away, and they fell into my hands in that way,for I was the chairman of the committee,and the books were naturally left in my hands.

87 Q-I want to introduce from this record marked exhibit "IOI",from page one hundred and seventy four this heading"minutes of the semi-annual conference of the Church of Jesus Christ of Latter Day Saints,held at Voree on the 6th,7th and 8th of October in the year of 1848",and I introduce that part of it to show the date of the conference?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and for the further reason that the record referred to has not been properly identified.

88 Q-And I shall introduce in connection with that just offered from the same book on page one hundred and seventy seven,commencing with the words"evening session opened by singing, Prayer by John Porter". You may read it?(handing witness book). Read the fourth line from the bottom for that is what I want?

By Mr P.P. Kelley,-"We object to the introduction of any page,or part of the page,or line or word from that book,for the reason that the same is incompetent, irrelevant and immaterial,and hearsay,and for the further reason that the same,-that is that the book has not been properly identified,and there is no evidence that it has been kept by any proper officer in the church or society whatever,and especially there is no proof that it was kept by any proper officer of either the plaintiff in this case or by the defendant,or either of them".

By Mr Hall,-

89 Q-Read the fourth line there? A-"Beloit church was represented by J-W. Briggs."

90 Q-Read it as it is there? A-A-"Beloit,etc,-seven members,J"W. Briggs.

91 Q-Now read the signatures on the one hundred and seventy eighth page?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immetorial,and for the reasons above set forth,and for the reasons that there is no proof that they are the signatures of the parties they purport to represent".

92 Q-Just read it as it is there? A-"James J Strang, President,Gilbert Watson Clerk."
93 Q-That is the way it reads there? A-Yes sir.
94 Q-Now Mr Hickey I will ask you to read from exhibit one hindred and one("101"0,on page one hundred and fifty three,commencing at the top oftho page,and read -ing down to the words"Gilbert Foster"I should say "Gilbert Watson",clerk".

By Mr P.P. Kelley,-I object to that on the ground that it is incompetent,irrelevant and immaterial,and not an authorized book,or a book authorized by either the plaintiff or defendant in this action,and not kept or in the possession of any ~~of the~~ officers of either the plaintiff or defendant in this action,or by any person authorized by either of the parties to this suit,and contains marks and interlineations, and is not the original record.It is also objected to on the further ground that it contains interlin-eations made by persons others than the ones who first made the record,or who first did the writing in the book,and subsequent to the death of the party who presumably wrote the record."

By Mr Southern,-"Mr Hall objects to the objection made by the gentleman on the ground that it is prolix and a stump speech,and asks to the court to tax the cost of it to the plaintiff."

95 Q-Go ahead and read it? A-Read this page?
96 Q-Yes sir?read it from the top of the page down to the words "Gilbert Watson,clerk"? A-"The High Coun-cil of the Church of Jesus Christ of Latter Day Sain-ts,assembled pursuant to adjournment,at house of James Blakeslee,in Voree on the night and day of October(the"day"is interlined in here),in the year of our Lord eighteen hundred and forty seven,was organized according to the law of God in the follow-ing order to wit,-

I	H.H. Aldrich	2	John Porter.
3	Ben G. Wright.	4	Francis Fox.
5	Alden Hale.	6	J.W. Archer.
7	Caleb Hall	8	William Savage.
9	James Blakeslee.	~~10~~	~~Finley~~
I0	Finley Page.	II	Daniel ~~Murphy~~. Avery.
I2	Ebenezer Page.		

William Smith stood charged with adultery,(in margin appears in lead pencil the letters,as follows"B.S.") and apostasy. He was notified of his trial,out did not appear. Decided a common case.

Pres Strang presented the testimony of Sister Elsworth, Pres Marks and Ebenezer Page were also introduced as wit-nessex,and gave testimony in the premises. (In the margin to 1 off of page appears in lead pencil this quota-tion"Marks testified that Smith was guilty).

He was found guilty and excommunicated from the church, and delivered over to the buffetings of Satan,until he repent and makes satisfaction.

Adjourned sine die.

James J. Strang,Pres.
William Marks,Assistant

Gilbert Watson,Clerk".

97 Q-I will ask you to-stat e what William Smith that is that is referred to there,if you know? A-I don't know of any other William Smith from the first time that I got acquainted with the Mormons only Bill Smi-th as he was called. That was William Smith,or "Bill Smith" as he was called,-Joseph Smith's brother He is the man that is identified there.
98 Q-It was William B. Smith,the brother of Joseph Smith the prophet? A-That is the man that I understand it was.

Counsel for the plaintiff objects to the answer of the witness, and moves the court to strike it from the record for the reason that it is irrelevant and immeterial, and an opinion of the witness.

99 Q-I will ask you to-read from exhibit one hundred and one(IOI)on page one hundred and fifty nine,- read commencing at the words"President Strang",and read down to the words "o n motion"?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that are set forth in the objection to question number 94.

A-"President Strang suggested the propriety of appoin -ting a committee to charge of the work upon the temple,.President Marks followed with remarks upon the same subject."

Whereupon it was unanimously resolved,-that a committee of two be appointed.

On motion of John E. Page,resolved unanimously,-

That President Strang and Marks be appointed said committee,the vote being called seperately on each".

By Mr E.L. Kelley,-

IOO Q-What is the date of that?

By Mr Hall,-

IOI Q-Read the heading of this ,commencing at the word" conference",and read to the word"open"? A-Conference of the church at Voree.

On the sixth day of October in the year of our Lord eighteen hundred and forty seven,the semi-annual conference of the church of Jesus Christ of Latter Day Saints assembled at Voree.

Opened by Prayer by President Strang. Singing.

On motion resolved,unanimously,-

That we have full confidence in James J. Strang as President of this church,and by virtue of that office recognize him as President of the Conference."

IO2 Q-I will ask you to look at that book,and state what it is? A-Well that is the record that was kept by the church under Mr Strangs adminstration of it.

IO3 Q-State how it came into your possession? A-Well when the pres and books were gathered up and shipped, I was as I before stated one of a committeeof three that was appointed to look after the interests of the church property,books,etc,and everything,and this record was found with the other records and documents and so I have had it in my possession ever since. I have no other reason to believe that it is anything other than what it purports to be,a record of the church.

(The book above referred to and identified by the witness is marked Exhibit "IO2".)

IO4 Q-It is a record of the church under Strangs administration? A-Yes sir.

IO5 Q-State if you can,any other way,that which you know that both this record and exhibit one hundred and one ("IOI"),-by which you can identify them? A-Well I would identify them in this way,-first,after I identified Mr Strang as Joseph Smith's successor, ~~and~~ ~~directly went out to Michigan to stop all then~~

I was in Nauvoo when I learned that he was Smith's successor,and I directly went out to Michigan to stop all the imigration I could from going to Salt Lake City,and I did not see Strang or go nigh him for about two years,-well yea it was about two years,- and I was invited to come up to the April conference with a gentleman from the western part of the state, and I went up there to the conference

and there I was called out and ordained un der his hands,-

106 Q-Ordained under whose hands? A-Under the hands of James J Strang,and you will find the record of my ordination in those books. Then I went back again to Michigan. Now of course when I know I was at that conference and find my name in there and the record of that conference and the things that occured there, and my ordination in there,and the whole thingx corresponds with my memory of it,of course I know that was the conference,and that the record relates that conference. There is the record of other men that were ordained at the time,and other conferences that I could identify too for I was there,and remember about it. I can identify it the same as if I was alderman in our ward,and anything transpired in connection with my official character in the ward,and there was a record of it,and I had access to the records and saw them,and I would know that they related to that particular piece of business. I would say forhter to-the court,that this x is not by any means all the records that were and are in existence.

107 Q-Now I will ask you to read from exhibit one hundred and xxx two ("102"),on page thirty four,commencing at the word "Tuesday",and reading to the bottom of the page?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and there is no issue in this case under which the evidence is legally admissiable which the witness now seeks to read from. It has never been identified,and the witness is not and does not pretend to be the party that wrote it,or to have written anything in the book,and the party who has written it is not present to properly identify the book,therefore the testimony from this witness is hearsay."

A-"Tuesday,September 16th,the Assembly met in the printers hall. Prayer by Moses Chase,Patriarch. Moved and seconded that W.H. Gurley be appointed to preside over the branches in western and southern Wisconsin, west of Voree. By judicial appointment. Carried. Moved and seconded that Moses Chase be sent on a mission to Baltimore M.D.,and Washington vicinity. Moved and seconded that A.G. Scace be to the north eastern shore of Lake Ontario in N.Y., and to the county of St Lawrence,Carried.

By Mr Kelley,-

108 Q-What year was that?

By Mr Hall,-

109 Q-I will ask you to now read from page thirty three, beginning with the word"printers",and read down to the word"presidin "?

Counsel for the plaintiff objects to the questionfor the grounds and reasons as set forth in the objection to question 94.

110 Q-Read down to the word "Seventies"? A-Printers Hall. St James Beaver Island. Sep't 18th 1851. Conference assembled at nine o'clock. A.M.. Pres Strang presidin.

Service commenced by singing,reading and prayer,. James M Greig preached on false witnesses. Remarks by Phineas Wright by way of exertation to the elders in going out to preach.

Adjourned till 2 o'clock P.M..,Benediction by Pres Strang.

Afternoon session. Opened by singing. Prayer by George Bronson H.P. Singing.

Pres Strang after reading the second chapter of the book of the law of the Lord,and showed the glorious excellence of the true God. Preached on the faith of man,and the great plan devised by his great Creator

for his redemption. Exertations by B.G. Wright, Pres of the Stake at Voree and Zenas H. Gurley one of the seventies." Is that all.

Counsel for the plaintiff objects to the answer of the witness and moves the court to exclude it from the record for the same reason as set forth in the objection to the question to which it is an answer.

III Q-I will ask you to read the head here, of page forty six?

Counsel for the plaintiff objects to the question for the reasons last above set forth.

A-The heading?

II2 Q-Yes sir,-just the heading? A-It is "Sealings on the 14th and 15th days of September",-i t is in Italic.

II3 Q-Read all of it? A-I have read all the heading.

II4 Q-Now I will ask you to read from,-read the sixth line from the botton. Read that line there.

Counsel for the plaintiff objects to the question for the reasons given above.

A-Oh no Mr Hall, you should not ask me to read that, for you are going to expose all out polygamous practices,-our spiritual wife system and all that, and that is not fair.

II5 Q-"Ell just read that? A-Zenas H. Gurley, proxy for Hiram Baxter."

II6 Q-Now read the seventh line? A-"Hiram Baxter, dead, Delaney Thomas."

II7 Q-I will ask you to state Mr Hickey whether or not you know anything about this sealing as it is here recorded?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial.

A-Yes sir, of course I know all about it, and I would not say so unless I did know all about it.

II8 Q-I will ask you to state what this mean here were where it xxxxx states "Zenas H. Gurley, proxy for Hiram Baxter"?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not the best evidence "the book itself being the best evidence, and any thing the witness might say on that question would be merely the opinion of the witness."

A-The sealing principle was this,-that if a man died without a wife, for thy rocurrection hereafter, or life everlasting,-that is if she had not been sealed to him she was not to be his wife in the xxxxxxxxx life everlasting, then he could come and claim her, and the woman could stand up in her place, and by proxy be sealed to the living man, and at the same time be sealed to the one that was dead for eternity,-the man that was living she could be sealed to for time, and to the one that was dead for eternity, for that was the science of it.

II9 Q-I will ask you to state whether or not that admitted of a woman, I should say of a man being sealed to more than one woman?

Counsel for the plaintiff objects to the question asked x the witness for the reasons last above set forth.

A-Permitted a man to be sealed to more than one woman

I20 Q-Yes sir? A-Of course he would have to be sealed to more than one woman. Now with reference to us Mormon people, we generally calculate to marry for the xxx life everlasting, but if a man had lost

his wife and wanted to have her,he would have both of them sealed to him. The one that was left would not be piggish about it and say he could not have the one that was dead,but that he could have both of them,and so he could have her sealed to him,and then have both of them.

121 Q-I will ask you to state whether this system of sealing permitted a man to have more than one woman sealed to him at the same time? (that is, have more than one living woman sealed to him at the same time?)

Counsel for the plaintiff objects to the question asked the witness on the grounds set forth in the last preceeding objection.

A-I do not know that there is anything in the simple act of sealing,so far as that goes. When Strang translated these plates that Smith left untranslated he did not believe in polygamy until he translated the plates. He never published it or said anything about it until he translated those plates,and when he came to the plates and translated them and saw that it was commanded,he was so opposed to it,that he threw the plates on the floor and said he would not publish it, and then he was reproved by the same power that Smith was reproved by,and told that he would have to go on with his work,or be punished for his refusal to do so.

122 Q-What plates were t ese to which you refer? A-The plates that Moshi took from Jerusalem.-Strang translated them and found in them the law of polygamy,and after the translation he published it and then he endorsed the doctrine of polygamy after he was commanded to do so.

Counsel for the plaintiff objects to the last two answers of the witness,and the questions to which they are answers on the grounds and for the reasons that they are incompetent,irrelevent and immaterial,and not responsive to the question.

123 Q-I will ask you if,-I will ask you to state whether or not this sealing referred to here now,was really the law of Laban?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant,and immaterial,and calls for an opinion of the witness.

A-Well I know what the sealing was,and I know what polygamy was and I can explain all about it if you will give me a chance to do so.

124 Q-Well state whether or not this sealing that was practiced as recorded here,was carrying out that law of polygamy?

Counsel for the plain tiff objects to the question for the reasons above set forth.

A-Well I will tell you in a moment,if you will give me a chance to think it over. Why in the first place among us,we brought up our children to believe in it,and we never thought of marrying or marriage without being sealed,and if you came into Strang's church having first been married by other authority, we did not consider the marriage as any better than baptism in that other authority. That is my experience in that matter,and that is what Mr Strang taught and what is taught in that book,and what was the practice there. So far as being married is concerned we considered that the priest hood should join us in marriage,and then pertaining to the future by the same authority and by the same law. How the book of the law that Strang translated makes provision for that.

in commemoration of the day that God gave us the kingdom.

I25 Q-Makes provision for what? A-For marriage and sealing.
I26 Q-Now Mr Hickey I will ask you to read from pages thirty six commencing at the word"minutes",at the bottom of the page?
Counsel for the plaintiff objects to the question for the reasons and on the grounds that is is incompetent,irrelevant and immaterial,and not the best evidence, the book itself being the best evidence.
I27 Q-The part I want you to read is from the word"Minutes",down to the bottom of the page? A-"Minutes of the general assembly of the Saints held at the Enoch Grove,on the 8,9,10,and11th days of July 1842,a thank offering was offered to the Lord,on the 8th of July by most of the heads of the families in the kingdom."
I28 Q-Now I will ask you to read on page thirty eight, commencing at the words"Afternoon session",and reading down to the word "Bishop"?
Counsel for the plaintiff objects to the question for the reason; above set forth.
A"Afternoon session.
Service commenced by singing. Prayer by L.D. Hickey, one of the Twelve. Singing. Pres Strang finished the discourse that was commenced in the forenoon. The Quorom of the twelve have taken the case of Mr Samuel Graham into consideration and have dropped him from the Quorom for apostasy,and the conference concur in what the Twelve have done,and his priesthood taken from him. James Blakeslee dropped for heresy and Jehiel Savage dropped for the same,and their priesthood taken from them. Zenas H. Gurley priesthood taken from him.
Adjourned until 9 o'clock to morrow.
Benediction by James G. Greig, Bishop.
I29 Q-I will ask you to-state if you are the man referred to in that record as "L.D. Hickey"? A-Yes sir,I am the very man and none other.
I30 Q-I will ask you to state whether or not you saw that book which you now hold in your hands at that time,and whether or not you can now identify it?
A-Well my wifes name is in here,and there is my name too. Now this was a great many years and it is hard for me to say as to that. I knew the clerk very well ,-I recollect the occasion very well,but when it comes to identifying a thing like that it is here to do. Why I might be asked ten years from now if I could Identify that book there(referring to Notary's note book)and I might not be able to do so,although I might remember that gentleman,and know that I had seen a book like that ~~that~~ one perhaps,and in all probability I would not be able to identify it. I could say that at this time I was familiar with the work,and I saw it there.
I31 Q-Well were you familiar with the hand writing of the clerk? A-Mr Hall?
I32 Q-Yes sir? A-Yes sir.
I33 Q-You are familiar with his hand writing? A-I think I am.
I34 Q-Well state whether or not you can identify that as the hand writing of the clerk that wrote it?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and the witness has not shown himself to be competent to testify to that fact.
A-Well now I will tell you Mr Hall,that so far as the clerks hand writing is concerned,I will say that while Mr Hall was our general recorder

and clerk and generally attended the conferences and wrote up the records,but still he did not always do it,for some times he was not there or could not be there,and then we would appoint some body in his place,-we had others that officiated in his place or for him,and so I could not say that he always did. I did not see Mr Hall's name here on this page you refer to,but you will see my name there several times if that is any use to you,and I have no doubt at all but that is the regular record of the church?

I35 Q-I will ask you now to read on page thirty nine,At the close of the minutes of that conference,the signatures? A-The signatures did you say?

I36 Q-Yes sir,the signatures?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial,and not the best evidence,-the book itself being the best evidence.

I37 Q-"Those signatures are they there on that page at least also? A-Well if I was going to testify I should say that that was Mr Strang's writing. That is what I would say,and I would say that that was Mr Hall's."

I38 Q-"Well read the signatures? A-James J Strang,President. W.W. Hall clerk. I think that is their signatures to the best of my knowledge,recollection and belief.

I39 Q-Now Mr Pierce as I believe you did not read the letter from Joseph Smith to James J Strang set forth on the first page of exhibit "IOI",and the succeeding pages,I will ask that you now read it,unless those gentlemen will consent that it may be copied into the record by the reporter?

By Mr Kelley,-"We do not insist that it be read at this time,but we object to its being introduction for any purpose for the reasons we set forth in our objection to it when you offered it this morning. If you want to have it copied into the record you can do so subject to our objection".

By Mr Hall,-"Well I believe I will have it set forth in the record.

The letter above referred to,is as follows,-

Nauvoo, June 16th 1844.

My Dear Son,-

Your epistle of May 24th proposing the planting a stake of Zion in Wisconsin and the gathering of the saints there was duly received,and I with most of the brethern whose advice I called in were of opinion that you was deceived by a spirit not of this world great but not good. Brother Hyrum however thought otherwise and favored the proposition not doubting it was of God. I however determined to return you an unfavorable answer for the present. But oh the littleness of man in his best earthly state. Not so the will of the Almighty. God hath ruled in otherwise,and a message from the throne of grace directed to me as it hath inspired you,and the faith which thou hast in the Shepherd,the stone of Israel hath been repaid to thee thousand fold,and thou shalt be like him but the flock shall find rest with thee and God shall reveal to thee his will concerning them.

I have long felt that my present work was almost done,and that I should soon be called to rule a mighty host,but something whispers me it will be in the land of Spirits where the wicked cease from troubling and the bands of the prisoners fall off. My heart yearns for my little ones but I know God will be a father to them,and I can claim face to face the fulfillment of promises from him who is a covenant keeping God and who sweareth and performeth,

and faileth not to the uttermost.

The wolves are upon the scent, and I am ~~willing~~ wailing to be offered up if such be the will of God knowing that though my visage be more marred than that of any it will be unsmirred and fair when archangels shall place on my brow the double crown of martyr and king in a heavenly world.

In the midst of darkness and boding danger the spirit of Elijah came upon me and I went away to enquire of God how the church should be saved. I was upon the hill or the Temple. The calm father of waters rolled below, changeless and eternal. I beheld a light in the heavens above, and streams of bright light illuminated the firmament varied and beautiful as the rainbow; gentle yet rapid as the fierce lightning. The Almighty came from his throne of rest. He clothed himself with light as with a garment. He spoke. The moon and stars went out. The earth dissolved in vapor. I rose on air, and was borne on wings of Cherubims. The sweetest strains of heavenly music thrilled in my ear but the notes were low and sad as though they sounded the requiem of martyred Prophets.

I bowed my head to the earth and asked only wisdom and strength for the church. The voice of God answered:

My servant Joseph, thou hast been faithful over many things, and thy reward is glorious. The crowns of glory are within, and they wait thee. But thou hast sinned in some things and its glories are dark, but rest followeth and to-its days there shall be no end. Study the words of my vision for it taryeth not.

And behold my servant James J. Strang hath come to thee from afar for truth when he knew it not and hath not rejected it. Blessed art thou for thy faith in the Shepherd and stone of Israel, and to him shall the gathering of the people be for he shall plant a stake in Wisconsin, and I will establish it, and there shall my people have peace and rest, and it shall not be moved, for it shall be established on the prairie on White River in the lands of Racine and Walworth, and behold my servants James and Aaron shall plant it, for I have given wisdom and here I shall stand in the lot of my will beside the river, looking down on the prairie and I will instruct my people and plead with them face to face.

Behold my servant James shall lengthen the cords and strengthen the stakes of Zion, and my servant Aaron shall be his counsellor, for he hath wisdom in the gospel, and understandeth the doctrines and erreth not therein.

And I will have a house built unto me there of stone, and there will I show myself to my people by many mighty works, and the name of the city shall be called Voree, which is, being interpreted, garden of peace for there shall my people have place and rest and waxed fat and pleasant in the presence of their enemies.

But I will again stretch out my ~~hand~~ arm over the river of waters, and on the banks thereof shall the house of my choice be. But now the City of Voree shall be a stronghold of safety to my people, and they that are faithful and obey not will there give them great prosperity, and such as they have not had before; and unto Voree shall be the gathering of my people, and there shall the oppressed flee for safety and none shall molest or hurt them.

Punishment is very bitter

And by this shall they know that I have spoken it;the people there and the owners of the land shall show kindness to them,for great calamities are coming upon the church, and such as have not been,and if they scatter the ungodly of the world shall swallow them up,but if they gather in my city of Zion,there will I keep them under the shadow of my wings,and the cities from whence my people have been driven shall be purged with a high hand,for I will do it,and my people shall be again restored to their possessions,but dark clouds are gathering, for the church is not yet wholly purged.

and now I command my servants the apostles and priests and elders of the church of the saints that they communicate and proclaim this my word to all the saints of God in all the world,that they may be gathering unto and around about my city of Zion,and be saved from their enemies,for I will have a people to serve me.

And I command my servant Moses Smith that he come unto the saints where he is acknowledged and unto my people and commune with them in my name to go into the city of Zion,and gain an inheritance therein,and he shall have an inheritance therein,for he hath left all for my sake,and I will confess to his name in my fold if he be faithful,for he knows the land and can testify unto them that it is very good.

So saith the Almighty God of Heaven". The date is too plain and if then lackest wisdom ask of God in those hands I trust that and he will give thee unsparingly for if evil be all in thou shalt lead the flock to pleasant pastures.

God sustain thee.

Joseph Smith.

James J. Strang.

I40 Q-Now I will ask you to state the tenor that you know in relation to the appointment that had been written from Nauvoo by Joseph Smith to James J Strang? A-Well I think I states what I know about that.

I41 Q-Well I have no recollection of it if you did,and now I will ask you to state what you know about that appointment having been written or delivered to James J Strang? Just state what you know about it? A-Well I know it was,-

I42 Q-Well I want your reasons for knowing that? A-Well I don't know that Mr Harrison is President of the United States when it comes down to that. I did not see him inducted or inuugurated into office yet no one will say but that he is the President of the United States. So I only know that by hearsay for I never saw him,and I do not know that there is such a man as Grover Cleveland only by hearsay".

I43 Q-I will ask you to state whether or not you have investigated that letter to know whether it was genuine or not?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,and the witness is not competent, unless,or has not shown himself to be competent to answer the question.

A-I have sir.

I44 Q-Well state the results of your investigation?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,and immaterial.

A-Well at the time I went to Voree to satisfy my mind,-The first time I saw Strang I had my scruples of course as to his genuineness,but no more sir-than I had as to Joseph Smith,for I had to satisfy myself in regard to both Strang and Smith as best I could by picking

up evidence here and there regarding their claims and to learn whether they were what they purported to be. For that was the way it was, and when I first went to Voree I went more as an enquirer than anything else, and I went to Mr Sheldon the postmaster at Burlington, Wisconsin, for it was said that he took that letter out of the xxx mail bag and I interviewed him and he told me it was so; and then I went to Mr Barnes the man that it was said Mr Sheldon had delivered the letter to and I interviewed him. For I interviewed these two men and I can't say now what was said pro and con for it was so long ago for me to remember what they said, but I remember something which Barnes said, which I am at liberty to mention here however. He said that he had received it from Mr Sheldon, and from what they told me they satisfied me that Strang got the letter and came by it honestly. Sheldon said that he took it from the mail bags himself, and gave it to Barnes, and Barnes said he got it from Sheldon who was the post master, and that he (Barnes) carried it to Strang. The brethren said that Strang received that letter and when I first heard of it I was alone with many others just as sceptical as any one about that letter, and so we were bound to get the facts and in relation to it, and that was the reason I took the pains I did to get at the facts, for I wanted to satisfy myself about it.

Counsel for the plaintiff objects to the xxxxxxx answer of the witness, and moves the court to exclude it from the record on the ground that it is hearsay, incompetent, and not responsive to the question asked.

I45 Q-I will ask you Mr Storey to turn on page one hundred of these or exhibit "101",-just read that letter or part of it commencing and beginning, four and down to page one hundred and five?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant, incompetent, and immaterial, and not the best evidence" for the xxxxxxxx xxxxxxxx shows that what he is about to read is a copy, and it shows that on its face."

I46 Q-Do you read it? A-"

Kirtland, Ohio, Aug 14th 1841

Dear brethren and sisters,-I sit down to write a brief account of our work so far. I arrived here in good season, getting in at the commencement of conference on the 7th. Conference lasted four days and was well attended, the lower court of the temple being well filled on sabbath day. (the word "day" apparently written over the word "evening"). There were four hundred in attendance Saturday. "In (???) preached three times, the sacrament four times. Sabbath I spoke three times in a most rapid manner on the order of the church, and in a congregation filling a space fifty five feet square there was not one unattentive person, and I may safely say there were not five persons who were not convinced of the truth of every position I took. Monday was devoted to the transaction of business. A list of officers nearly full xxxxxxxxxxxx for the stake was appointed. Lester Brooks was ordained one of the Twelve apostles. Resolutions were passed (with but one dissenting vote) sustaining the true authorities and order of the church; and a strong mission appointed to go to England and such arrangements made that they will have here in writing (the word "here" is written over another word that is illegible) sufficient means to go by steam to Europe before the end of the month. Of the Twelve Moses Smith and Lester Brooks, of the High Priestsy Martin Harris and Hazen Aldrich, and several elders go out. No difficulty was experienced in raising the necessary means, and nothing

has occured to mar our joy or in any respect to depress our hopes, we ~~believe~~ ~~is~~ in our midst by the strong testimony of his spirit, we have the house of the Lord and his people for they are of us, and we intend to have all their church property for the benefit of Father Smith and of the poor of the church. The temple here is deeded to Joseph Smith, President of the church as sole trustee in trust, and to his successors in the first Presidency forever, and we have it in peaceful and undisputed possession. The fact is in the possession-of a tenant, or some thing else, who thinks to-keep possession by disputing the right of every body who may claim to represent the church. We have not a Bishop who will be apt to attend to this case. We remain here over next Sabbath contrary to our original intentions, because the work prospers so well here, that we cannot make up our minds to leave it till it is well come up. Some have been baptized here, who never before belonged to the church. And we have from golden opinions of all people round, thus proving the truth of my oft repeated remark that the surest way of making friends is by deserving them, and that when that means failed it was useless to try any other. The few who of us are greatly disappointed at the success of our efforts, and the numbers and the unanimity of our proceedings. The temple is a most splendid edifice, in much better repair than I had my idea of finding it. We intended a few improvements for building a stone wall around it, and putting it in first rate repair, and thus save something valuable out of the vast sacrifice, and toils of the brethren in times gone by. With all the success that has attended the preaching of the Gospel by this church, there is no people who have sacrificed so much, failed so often, or made so many abortions. And why? Because they have not kept the law of the Lord, nor been governed by his word. Preaching the true gospel, God has given them success; but practicing contrary to his law, he has given them judgments.

My thoughts are turned anxiously to Voree, and my prayers go up to God three times a day for her peace. As oft as you eat bread I beg you consider if there be any bickerings among you and to remember that though far away, the heart of your prophet is in your midst, his thoughts upon you, and his prayers ascending up to the throne of God for your peace.

Yours in truth ever.
James J. Strang.

To the church at Voree.

I47 Q-I will ask you to state Mr Hickey who, if any one, was appointed by Mr Strang to act as associate Presidents with him?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not the best evidence.

A-What is that questio ?

I48 Q-I ask a you to state who, if any one, was appointed by Mr Strang to act with him as associate Presidents That is as Presidents of the church? A-Mr Strang did not appoint any one. It was his prerogative,-You asked me who he appointed?

I49 Q-Yes sir? A-Ah that will do. William Marks was one and George J. Adams was another,-they were the two that were appointed.

I50 Q-State whether or not there was any bode else appoin -ted through a revelation through Mr Strang? A-Well they were appointed through a revelation.

I5I Q-Well what I want to get at is whether ther was any body else appointed? A-Well if I remember right, and I think I am correct, they were removed, and then the Quorom was filled up by the

same rule that it had been filled in the first place. It was filled I think by the same rule that these other members had been appointed. Now I think there was some others,-oh yes I remember there were,-of course there was,-Why"Young Joe"was appointed",-

I52 Q-To whom do you refer? A-Well I refer to young Joe Smith, or Joseph Smith -I beg your pardon gentlemen for referring to him so familiarly for really the state of friendship that exists between us hardly warrants my addressing him,or referring to him so familiarly. They get it off on me som e times you know as "Jim Strang" and I try to get back at them when I can. I meant Joseph Smith,and I am sorry that I said "Young Joe"

I53 Q-Can you refer to the revelation? A-November 6th 1846."

I54 Q-That was the date of it? A-I think so if I am not greatly mistaken that is the date.

I55 Q-Can you refer to that revelation there in that book A-I think I can.

I56 Q-Well please refer to it? A-Well it was on November 6th '46 I am quite positive,but this in here does not give the date,and I thought it did. I haven't ~~pa~~ paid any attention to it much for years I haven't paid any attention to amount to anything to these books for years,until lately,and I am not prepared to turn right to the pages where these things are. I have it though in another book here that ~~x~~ I can refer to, and I think it will ~~xxxxxxxx~~ expidite business for me to do so.

I56 Q-Well you can do so? A-~~Xit~~ (Witness refers to another book and answers). No sir it is not in there, -the date is not in there,but I have books that I think it is in.

I57 Q-Well see if you can get it? A-Well let me see. I can't find it in here(referring to exhibit IOI")

I58 Q-I will ask you to look at that book Mr Hickey and state what it is? A-It tells what it is right in ~~th~~ there.

I59 Q-Well you may state what it is? A-It is the book of the law of the Lord.

~~The book above referred to and identified by the witness as the book of the law of the Lord is marked exhibit~~

I60 Q-It is the book of the law of the Lord? A-Yes sir

The book above referred to and ~~x~~ identified by the witness as the book of the law of the Lord is marked exhibit "I08".

I6I Q-Well state,if you can,what that book is? A-It is the book of the law of the Lord,and consists of the translations~~x~~ of the plates that Joseph Smith,-Joseph Smith unsealed,and which were delivered to Mr Strang, by the same authority that placed the book of Mormon,-I should say by the same authority that the plates the book of Mormon is taken from was delivered to Mr Smith.

By P.P. Kelley,-"That question and answer is objected to for the reason that it is incompetent,irrelevant and immaterial,and I move the court to exclude that answer for thatreason.

I62 Q-I will ask you to state,if you can,how it was translated? A-How what was translated?

I63 Q-These plates you have referred to?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and immaterial.

A-It was translated just the same as the book of Mormon was translated,-by the Urim and Thummim.

I64 Q-I will ask you to state whether or not Mr Strang claimed to have the Urim and Thummim in his possession?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and immaterial,hearsay and leading.

A-Yes sir he did have them.

I65 Q-I will ask you to state Mr Hickey whether or not there was any talk among the elders of the church before the death of Joseph Smith in regard to the doctrine of what is now commonly called polygamy, or plural marriage?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is leading, irrelevant, incompetent and immaterial.

I66 Q-Answer the question? A-Oh don't bother me about polygamy. You can get along without that.

I67 Q-Well just answer the question in your own way? A-Yes sir, why of course there was.

I68 Q-I will ask you whether or not it was understood that there was such a doctrine being secretly practiced in the church?

Counsel for the plaintiff objects to the question asked the witness on the grounds above set forth.

A-Well I have no scruples about answering that question at all, but by way of explaining myself to ~~xxx~~ yours misunderstanding,-

By Mr F. T. Kelly,-

I89 Q-Just answer the question,-the explaining part will come later on? A-I will answer it my own way,-in order that I might be better understood I might say yes or no to that question, and both answers be correct. Now I don't know that I thoroughly understand that question so will you please be kind enough to repeat it?

By Mr Hall,-

I90 Q-Just answer the question I asked you? A-What is the question? That is what I want to know?

I91 Q-I asked you if that was generally understood that there was such a doctrine as plurality of wives, commonly called polygamy, being secretly practiced in the church before the death of Joseph Smith? A-Yes sir there was.

I92 Q-How did you know that?

Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth, and for the further reason that it is cross examination.

A-I carried an High priest from Detroit, or a little town out-of Detroit,-and we travelled about ~~three~~ six hundred and fifty miles that winter. He had been sent out from Nauvoo to buy glass for the temple,-to trade off some lang that the church had and get some glass for the temple with it, and he was trying to make the trade and get the glass from the glass company there at Mt Clemens ~~xx~~ in Macomb county, and I carried him up there on purpose to learn what I could regarding the Mormon church, for I hadn't been in the church for long at that time, and I was curious to find out all I could about it. I learned from him all I wanted to learn and he taught me things that he said were taught there, but I never said much about it for it seemed to me not to be policy to say anything about what he taught me. He taught me many a thing that I never heard before. For example he taught me that if my wife proved to be of the tribe of Judah and I was one of the tribe of Ashur or Dan, she would be taken from me and be given to a man that was of the tribe of Judah. Now that was one of the things that were taught, and there were other things similar that were taught, to me. Well now I was just fool enough to keep it quiet to myself and not say anything about it openly, but I said to myself "Well if my wife is of the tribe of Judah, and I am of the tribe of Joseph or any other

tribe,and she wants to leave me,why let her rip,-I don't care". I remember that conversation right well,and it was funny. I remember saying to him "now you shoul be very careful what you teach me,for I am young and tender,and if I teach these secrets you will have to kick me out of the church",but it did not make any difference,-I got all I wanted.

Counsel for the plaintiff objects to the answer of the witness on the ground that it is irrelevant and immaterial,and not responsive to any question.

193 Q--I will ask you to state whether there was any rule or law in the church that required revelations to be submitted to certain officers to be tested?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not the best evidence.

A-Not that I know of.

194 Q-You don't know of any law to that effect,or rule? A-No sir,no I will say that I never heard of anything of the kind until I heard it from the Brigghamites and Josephites. They have testers. Brigham Young left it in Nauvoo,and went off with out it,but I got it after he was out there at Salt Lake When we was told that the church was rejected,he brought it in and said it was because the church was without a tester,-Now that is what Hyde says about it. I thought from the way the Josephites accused the Brighamites,that Brigham left him in Nauvoo,or lost it,-I say. But I don't know about this,and I don't want that to go down as testimony,for I am only talking in a jocular way,and not as evidence. I tell you in cut something about Young,as he's dead,but I couldn't find out anything to cut it, for in a manner,I never heard of or read of before.

Counsel for the plaintiff objects to the answer of the witness on the ground that it is not responsive to the question,and moves the court to exclude it from the record for that reason.

195 Q-Take the witness?

Cross examination by P.P. Kelley,-

196 Q-You joined what you have designated as the "Mormon church",when you were thirty years old? Is that what you stated? A-No sir,I did not say so.

197 Q-You did not? A-No sir.

198 Q-Well what do you say about that now? A-I said I joined the church in 1842.

199 Q-How old were you at that time? A-I don't know how old I am. I never figured it up.

200 Q-Well that would make you thirty years old exactly, would it not? A-I don't know.

201 Q-Well what is your best impression as to your age? A-I don't know sir. I have told you my age and I tell you I joined the church in 1842,and you can figure it out for yourself if you want to find out how old I was when I joined the church. Whether I was older or younger than thirty at that time I do not know.

202 Q-You were born in February 1811 were you not? A-Well I can't say how old I was,-you can figure that out,too if you want to.

203 Q-When were you born? A-I do not know.

204 Q-About what year were you born? A-I don't know. I can figure it out ~~and tell you~~ I suppose and tell you if you will give me time to do it,

but I think you could do it quicker than I could, for I am not as quick at that kind of work as I once was.

205 Q-How old are you now? A-Last February if my progenitors or parents kept the record right and marked my birth down correctly,-marked my birth down correctly, I was seventy eight years of age.

206 Q-Now if your progenitors and parents kept your age correctly, and marked it down, they must have marked down the date of your birth, and that is what I am asking you for? A-I don't know, for I never figured it.

207 Q-Do you decline to answer the question? A-I do not

208 Q-Then why do you not answer it? A-I say I never figured it.

209 Q-That is not an answer to the question? A-It is the question.

210 Q-Where were you born? A-I don't tell.

211 Q-Did you tell within two years? A-I do not recollect it now, or as it you will, or any other gentleman in the room asked it, then I can tell you. I don't recollect how it was,-I was born sure enough, and that is about all there is in it, that interests me.

212 Q-Do you say you cannot recollect it out your mind? A-I do not say any such thing.

213 Q-Will you will you figure it out? A-Yes sir, I will do anything to please you(pause) or for does that come from 1814?

214 Q-Was it in 1814? Was it about that time? A-Well that is the way I figure it out. If I have figured it it is a mathematical mistake.

215 Q-Well that would make you twenty eight years old when you joined the church? A-I never figured that part of it.

216 Q-Well certain from twenty eight,-fourteen from forty two,leaves twenty eight, don't it? A-Yes sir that is the way it looks to me.

217 Q-Now then Mr Hickey there is one thing, our right as well as petitioner in this case,-we are entitled to know that I am here as a lawyer and not as a preacher or member of any church,-to your or any body else's, and I expect to be treated like a white man, and I expect also to subject you to cross examination that in our opinion at any rate will be right and proper,if it takes me six months to do it. Now sir you may as well understand first and last that I am here in a lawyer and know what my business is, and I expect to treat you like a gentleman and be treated like a gentleman in return? A-How is that lecture done?

218 Q-You are sure that you are done,-I am? A-Well sir then I want you to understand that I am here as a witness and think I know what my rights as a witness are. I am here as a witness in this case,and as a witness I expect to do my duty as a witness by your side of the case,just the same as I have done with the other side of the case until I am examined and cross examined and you are done with me. I will do the best I can,and if I cannot answer your question, why I can't,and that is all there is to it when I tell you that I cannot answer them. I don't care about your being a lawyer or a preacher or over whether you are a member of any church,-I will treat you civil and courteously just as long as you treat me that way. Now sir I trust we understand each other. What question do you wish me to answer?

219 Q-Well that would make you about twenty eight years old when you joined the church,would it not? A-I can't say.

220 Q-Well fourteen from forty two leaves twenty eight, does it not? A-Yes sir.

221 Q-Now what year was it that you went on that glass hunting expedition with that gentleman? A-It was in February I think. I think it was in February, or some time in the winter of '46.

222 Q-Was it ~~in~~ '46 or '47? A-Well I think it was in '46

223 Q-It was,-you are sure of that? A-I could tell by ~~xxxxxxxxx~~ referring to my books but I have not paid my attention to this thing for a long time, and so I cannot say as to the exact ~~xxxx~~ time but I guess it was in '46. I ~~xx~~ am pretty positive it was for it is in my ~~xxxxx~~ memory that it was in February of '46 that we started out on that "glass expedition", as you call it.

224 Q-Who was with you? A-I took Dr Lyman Stoddard.

225 Q-You were an elder in the church then? A-I was. Yes sir.

226 Q-When were you ordained an elder? A-I was baptized in January of one year, and they held the conference at the county seat there in the following winter,-

227 Q-In 1842? A-Yes sir, or shortly after that.

228 Q-That you were baptized an elder in the church? A-Yes sir.

229 Q-You did not belong to the church quite a year, until you were ordained an elder? A-Yes sir.

230 Q-Who ordained you an ~~elder~~? A-An elder?

231 Q-Yes sir? A-H. Lyrionno. He ordained me.

232 Q-Where at? A-At Lewers the county seat.

233 Q-What was he? A-An high priest.

234 Q-He ordained you an high priest? A-I said no such thing as that. I said that the man that ordained me was an high priest.

235 Q-Well then you were ordained an elder in Michigan? A-Yes sir.

236 Q-And you began to preach right away? A-Only as-I went right at it right away.

237 Q-When did you preach the first time after you were ordained? A-The first year after I was ordained an elder?

238 Q-Yes sir? A-In Macomb county, Oakland County, Livingston county, and Lapeer county and Genesee county.

239 Q-You preached in all of those counties which you have enumerated? A-Yes sir. I preached in all of these counties.

240 Q-Your preaching was all done in the state of Michigan up to 1844 was it not, or in Wisconsin,-in Michigan or Wisconsin it was all done up to 1844 was it not A-Now let me see. Yes sir I think it was,-Well now I don't know about that, for I don't remember going out of the state of Michigan to preach before 1844?.

241 Q-You preached polygamy did you not in '45 and '44 up in the state of Michigan and Wisconsin? A-No sir I did not.

242 Q-Why did you not do it? A-Why because I did not have a right to do it. I was not authorized to do that.

243 Q-Were you taught polygamy before that? A-Well I don't,---

244 Q-Well answer the question? A-All right sir. Suit yourself, I will answer it. What is the question?

245 Q-Did you ever hear of Joseph Smith, or Wilford Woodruff or John Taylor or John E. Page or Lyman ~~xxxxx~~ Wight, or any of the twelve of the original church, prior to the 27th day of June 1844, teach polygamy either publicly or privately? A-No sir.

246 Q-You never heard them or any of them, teach it either publicly or privately? A-I don't remember as I ever did. Not these parties that you mention. *Joseph*

247 Q-They were they leaders in the church were they not? A-In fact

I never saw some of them any where.

246 Q-Did you ever see Joseph Smith? A-No sir.

247 Q-You never saw Joseph Smith at any time? A-No sir

248 Q-Did you ever see Woodruf? A-Yes sir,I think that I have seen Woodruf.

249 Q-Well do you know whether or not you ever saw him? A-Yes sir.I saw Woodruf.

250 Q-Did you know Sidney Rigdon? A-No sir.

251 Q-Did you know Hyrum Smith? A-No sir.

252 Q-Did you ever see him? A-No sir.

253 Q-Did you know Martin Harris? A-Yes sir Yes sir I know him in Palmyra,and I drewed wood offhis farm.

254 Q-Did you ever hear anything about polygamy? A-Did I ever hear him preach polygamy?

255 Q-Yes sir? A-No sir,for I was a boy at the time; I drewed wood off his farm. I never heard him preach polygamy or anything else.

256 Q-Did you ever hear Mr Strang, or John Cook say Joe? A-No sir I don't know that I ever heard him talk polygamy any where,private or publicly or privately any to me.

257 Q-Do you say that you never heard him preach polygamy prior to 1844? A-I don't know I ever did.

258 Q-Did you not state in your direct examination that you did not hear Strang, Cook, publicly preach polygamy or of such a doctrine or not to teach it until after Joe translated the book of the law of the Lord? A-Yes sir,-I don't know that I said that in polygamy sense, but that was as I understood it.

259 Q-Well, I never taught it until then? A-I don't know that he did. If he did I think I don't recollect anything about it.

260 Q-Is not any part of the strangites organization at Spring?time-? A- Is that not the truth? A-I don't know but that it was.

261 Q-Will you give the number of the church to which you belong?

262 Q-Will you give the members of Strangites church to which you belong at that time? A-I don't remember that time. I don't remember that they had until the book of the law of the Lord came out.

263 Q-Then did he translate the book of the law of the Lord? A-Will you hold on,-I have the records that were made from the plates. It came out at different times in different ways,- I may say that it came out in pieces. I remember that a part of it was published in Nauvoo Lord.

264 Q-Well when did he commence it? A-What,-commence what?

265 Q-The work of translating the book of the law of the Lord Lord? A-Well now you have got me there.

266 Q-Well does the book state the date? A-Well you can read it if you want to go so,and see for yourself.

267 Q-Well you look at it yourself and tell us that?. I never saw it before and I am not familiar with it, for you see I did not pay as much attention to the law of the Lord as you did? A-Well all I can say is that I am sorry for you for you are a pretty good looking fellow,and I presume a pretty good fellow,- at least I think I could find you so when got acquainted.

268 Q-Oh yes,I guess we could get along all right? A-Well now let us take one thing at a time. I don't think the date is given in here at all.

269 Q-Well you can give the date at which the plates were found from which it was translated? A-The time they were found?

270 Q- Yes sir,at the time they dug up the tree? A-Well they were

other plates,-that was not these plates,but the plates from which this book- was translated were other plates altogether. What is your name?

271 Q- My name is Kelley,and I am not ashamed of it either? A-Well I know your name now.-

272 Q-I am not a brother of John Kelley or his son Sidney,and I am not a prophet? A-Well let that pass,-there were not the plates that were found under that tree.

273 Q-Who did get these? A-They were the plates that were brought from Jerusalem,-taken from Laban,-they were the plates that Smith left un-translated. That photograph that I showed you a while ago was a photograph of the plates that were found under the tree.

274 Q-And the other plates were on plates that came from Jerusalem? A-Yes sir.

275 Q-Will you give Strang a hole of the plates that came from Jerusalem? A-Well now my dear brother I do not pretend to tell you for I don't know any thing about it only from hearsay. If I ever knew any thing of it it has passed out of my mind,and I haven't had occasion for years to refresh my memory on the subject but I have records that would explain every thing. I know about that.

276 Q- Do you know they were brought from Jerusalem by Laban? A-It is taken.

277 Q-Will how do you know they were brought from Jerusalem by Laban? A-Well how do I know that the book of Mormon was brought,-how do I know anything?

278 Q-Well answer my question,-how do you know it? A-How do I know it?

279 Q-Yes sir,that is the question,-how do you know it? A-Well sir I know it in two different ways.

280 Q-Well tell us how you know it,on what the two ways are, if you can so that we can get out? A-First I know it by investigation and criticising the claims,-Well how do I know it,-how do I know anything? Somebody told me that Harrison was elected,and I believe it and know that he was an American citizen. I believe that,but I did not see the election,and I had to form my conclusion and base my belief of the great fact upon the evidence that was presented to me of the fact.

281 Q-Will it do you any to see a paper that Harrison,the President of the United States based on your knowledge of it could be incorrect,for I am with you for your personal knowledge of the fact as to your statement that Laban brought the plates from Jerusalem? A-Well of course I can not say for I was not there when he got the plates,but there is the record that he did,and it is just as satisfactory to my mind of the fact as any record can be. I was not there when he got the plates.-

282 Q-Well I thought you were not,no that is the reason I was calling your mind back to it? A-No sir it is true I was not there,-that was long before my day.

283 Q-Well then you do not want to go on record as saying that Strang translated the plates that were brought by Laban from Jerusalem? A-By Nephi from Jerusalem.

284 Q-Well yes,that will do? A-Well yes sir I want to go on record as saying that Strang translated from the brass plates that were brought from Jerusalem and he translated the book of the law from

that. That is what I want to go on record as saying sir.

285 Q-Do you say that it was from the plates that the law was taken,-that the translation was taken from the plates that were brought from Jerusalem? A-Yes sir.

286 Q-How do you know they were brought from Jerusalem? A-Well sir I have nothing further to say, only that I have answered that question before.

287 Q-You know it by revelation? A-Yes sir, and I know a lot of things by revelation as well as I can know any thing, and that is one of them. I know too by guesses and by criticism. I know that Grover Cleveland lives though I never saw him, and I know that London is in England and Dublin in Ireland, and I know all these things from the same principle that I know that Joseph translated all these plates that Joseph said he translated.

288 Q-And that is the only way you know it? A-Yes sir. I have no better way than that.

289 Q-You know a better way than that? A-Yes sir.

290 Q-Well you ought to tell the best way you have of knowing it first? A-Well I don't know about that.

291 Q-Do you know it at all? A-Well I feel with all my respect to you I do not wish to answer it on account of your Q.-As a witness you have rights with all my respect to you I do not wish to put myself in that shape and have all the lawyers in the state of Michigan laughing at me. I don't wish to do that for he said he had revelations as a man out here in court,-a man said he had revelations about Joe Smith's successor and all that sort of thing and told his vision.

292 Q-How do you know that he was one,-[illegible] and did you hear and see it? A-Well no I did not hear but you don't deny that he said that, do you? Sent out by Brigham and I guess you don't deny it.

293 Q-Well you heard of it or read of it in a paper? A-Yes sir, but there is no doubt but that it occurred.

294 Q-Well could you tell us how you know that other thing,-that Strang translated that book from those plates? A-Well I say I know it by two principles,-first by close criticism and that tells me that Strang translated the plates, and I know it besides by the revelation that God has given me, and that is faith in him and his work. That is the best and surest way of knowing a thing,-at least it is the most satisfactory to me, and brother Kelly knows how that is.

295 Q-You keep your strongest ideas about how you know it is to yourself? Do you do that because you are afraid that some body will laugh at you if you seem to tell what they were? A-I have never been used to going into any court and have people tell that they know things by revelations and visions. Now that is the way it is with me for I do not propose to put myself in the position that Brigham did and have what I say put in the papers from one end of this land to the other, for the Judges in Michigan ask about what is going on here, and what kind of a court it is that permits such to go on as evidence, and the lawyers talk about it, and I do not propose to place myself in that position and be talked of in that way. You must respect my feelings as well as your own.

296 Q-Well I am asking you for the facts, and I do not care anything about what those fellows discuss up there in Michigan,-I am asking you for the facts now? A-Well I do, and that is where we differ

I have some regard for my own character for common sense and discretion if you have not, and I propose to protect it to the best of my ability.

297 Q-Did you say you saw something in the paper recent, which witness had stated here? A-Yes sir.

298 Q-How do you know whether that article you saw in the paper was true? A-Well I saw it in the Herald,- the Sentinel paper,-that is where I read it and I presume it would not be in there if it was not true. It was the laughing stock of the country, and Judge Hagan up there where I live said"if they go into that room, in you see a copy of the minutes of the court", and I tell you that I don't propose to put in that position, or to put myself on record in that way if I can help it. I don't want to be a laughing stock.

299 Q-The article you read was taken from the Kansas City Times and was re-published in the Herald? A-I don't know anything about that. I know I read it in the Herald.

300 Q-Do I think you could give us the date of the paper you read, when these plates from the hand of the Spirit translated by Strang first came into possession? A-Have that possession?

301 Q-Into Strang's possession,-just give me the date as near as you can when they came into Strang's possession? A-Do you mean the date from which the hand of the Spirit translated? A-Do you want to know the date?

302 Q-Yes sir, that is what I want to know if you can give it to me? A-Well if you will hear this a little I will try and tell you what I can, and if you will stop me, I will try and do it. Your question pertains more to the day of the month than to the year.

303 Q-No sir I want to know just about the year,-just about the time as early as you can recollect in it? Q-Did the paper "hit the nail on the head" of the journal in its report?

304 Q-Yes? A-Well sir, we were crowded on Jim Rigdon's farm, Sidney Rigdon's brother, and a meeting,- we will have to take this second meeting, that is the day I think, for I am not there, and I don't recollect. I heard about it. He was asked that question by Joseph Smith and it was said he was the man, I mean "Hunter the man of God", and as it was on the 27th of June that he was in session, I suppose that was the date of the or a day in reference to the plates- upon the book of the law of the Lord.

Translation. I don't know that it actually was on the 27th, for I know there was a steam boat came into our harbor late in the fall that year, too late to run to Nauvoo and they left it there all winter in charge, and Strang took possession of it and used it to translate the plates on board it.

305 Q-But the time did that steam boat come into our harbor? A-I think it was in October.

306 Q-Do you think it was in October 1847? A-I am not sure as to the year, but it was some time between that and 1848. I could by overhauling my books, if you will give me the day I believe, but I can't do it now.

307 Q-Will it do to say where between May and 1847? A-I think it was, but I could not say positively. I don't recollect positively as to the dates, and I cannot answer definitely from my memory.

308 Q-Well then Strang did not know anything about polygamy until he came here to translate these plates? A-He never published any

law upon the subject until then.

309 Q-Then it is a fact that he did not know anything about polygamy until then? Is that not the fact? A-I don't know what he knew about it. I know that he did not publish any law on the question until that time, but I don't know what he knew about it before that time.

310 Q-So far as you know he did not know anything about it? A-No sir I don't know whether he did or not. I know he did not publish any law on that question until that time. Now on now, there was perhaps a [illegible] or it translated at first, for he was told [illegible] translated little by little, and give it forth [illegible] proportion to the faith of the people, [illegible] put [illegible] of the book of the law of the Lord, -I don't know how long many years there were, but there was [illegible] for it was just a little [illegible] at, I know [illegible], but as to his publishing it, anything about polygamy, I don't know that he did but I do believed [illegible].

311 Q-You know until he published the book of the law of the Lord? A-Yes sir.

312 Q-And he translated this plate and then came out what [illegible] he not, throw it all down on the floor and on it and cross it and [illegible] [illegible]? Don't you do that? A-Did I say that?

313 Q-Did you not say that in getting [illegible]?

314 Q-You did not say that? A-No sir.

315 Q-Did you say? A-I said that as they the [illegible] on the floor and [illegible] that [illegible] interfere with it. I said that he [illegible] or a translation on the floor and [illegible] not [illegible] any further with it. That [illegible] I said that he did [illegible] found out that it [illegible]. If it is [illegible] any other way it is wrong, [illegible] want you to put it down the way I say it, [illegible] it right.

316 Q-[illegible] there between '47 and '50 [illegible] experience and there that [illegible] on the floor? A-Yes sir I was [illegible]. I said [illegible] the plate, but it was at the time [illegible] translating the plates and when a [illegible] [illegible] the work and he [illegible].

317 Q-[illegible] never believed in polygamy until that [illegible]? Is that not the fact? A-I don't know.

318 Q-He could not have thrown the plates down on the floor and [illegible] to go on with the work if he had [illegible] of it before? A-I don't [illegible]

319 Q-Will you not say this coming that he never believed in it or he would not have published it in the plates and throw it down on the floor and did not believe in it then until he forced it into him by main strength no [illegible] -Now didn't you say that? A-I say that he did not believe in it, but I don't know what he believed in before that. You did not ask me if he believed in it, but you asked me if he had been at that time, and I said I did not know that he had been. I don't say as to what another man may have [illegible] or may not have been. He may have believed in it privately before that, for all I know.

320 Q-Will it be [illegible] believed in it privately he would not have [illegible] it on the floor when he translated it, would he? A-Well I

^ but I did not say that he bought it.

338 Q-Well was it not in '46 that you first learned of
it? A-[illegible],-that I first learned what?
339 Q-Did you not [illegible] that it was in '46 that you first
learned of the existence of the doctrine of polygamy
[illegible] it explained to you? A-That [illegible],-
340 Q-When you went out on the plains expedition? A-[illegible]
[illegible] I learned about it, that time, and that was
[illegible] time I learned just what it was.
341 Q-Did you not say that that was the first time you
learned of it when you went out on that [illegible] you
[illegible]? A-I [illegible] it was when I first learned
[illegible]
342 Q-[illegible] in your direct examination [illegible]
[illegible] it was [illegible] with Stoddard [illegible]
[illegible] on that [illegible] expedition, that you first
[illegible] that [illegible] before the death
[illegible], did you not know that [illegible]
[illegible] before 1846? A-I did
343 Q-[illegible]
[illegible]. I [illegible] that Stoddard [illegible] out for
[illegible] whether or not [illegible] could [illegible]
[illegible] for it. I [illegible]
344 Q-[illegible] did you not say that [illegible] in '44? A-[illegible] it
[illegible] in the fall [illegible] Joseph
[illegible] out [illegible] to [illegible]. [illegible]
[illegible],-if I [illegible] right, it was under
[illegible] sent out there to [illegible]
345 Q-And that was in 1844? A-Yes, sir.
346 Q-How do you [illegible] it? A-How do I know anything?
347 Q-Don't you know that the temple was not built [illegible]
[illegible] story when Joseph Smith was [illegible]? A-I
don't know anything about that.
348 Q-[illegible] was it not in '46 or '47 [illegible]
[illegible]? A-[illegible] not.
349 Q-You [illegible] positive of that? A-Yes, sir [illegible] I know it,
[illegible] killed [illegible]
[illegible] recollection now, for [illegible]
350 Q-But you [illegible] positive on anything.
[illegible] killed [illegible] before [illegible]
[illegible]? ~~[illegible]~~ A-On [illegible]. I [illegible] that
[illegible] best of my recollection, and I think it
[illegible], but I [illegible] positive.
351 Q-[illegible] did you go up with Stoddard?
A-[illegible].
352 Q-Are you positive of that? A-Yes sir.
353 Q-[illegible] when the question was asked you,
or [illegible] information six or seven times
that that was in '46 that you went on that expedition
with Stoddard? A-Well I testify now that I don't
[illegible] it was. I know I was there with him,
[illegible] told me those things, and I don't care
[illegible]. My recollection is that it
was the fall or winter after Joseph Smith was shot
that I went up [illegible] with Stoddard, and it was at
that time that I talked these matters over with him.
354 Q-Talked these matters over with him.
355 Q-Talked over with Stoddard? A-Yes sir
sir. about polygamy and plural wives, etc? A-Yes

356 Q-How you say that Joseph Smith sent him, do you? A-Sent Stoddard?

357 Q-Yes sir? A-Well that is my recollection of it.

358 Q-And Joseph Smith was killed on June 27th 1844, and still you say that the next witness Joseph Smith sent in that Illinois expedition mission? A-I say I suppose he did. I don't know and I don't care who sent him, but that was my understanding of it. That is my the question as I look at it.

359 Q-Well if it is the question as I look it it, and the question that is the question I question you propound it? A-Well I don't care a pig-pen about that.-I suppose he was sent by the President of the church or he would not have been there. I suppose he was sent by the Presidency or else by the church or the property.

360 Q-Was the President of the church then? A-Joseph Smith was before he was shot.

361 Q-Well if you not say that he was the President of the church at the time that Stoddard was of that Illinois expedition? A-Well Joseph Smith's talents were in the Presidency, while he was alive. He could not have well been President after he was dead.

362 Q-You conclude therefore that he was not the President, do you? A-No, sir.

363 Q-Who was the President after Strang? A-Do you know?

364 Q-Well if I do not, you tell me that I do, for I think that as lawyer you ought to know. Who was the President? A-That is the question.

365 Q-Was there any President of the church after Strang? A-Was there any President after Strang?

366 Q-Well, that is the question? A-Well, well in a general way. That is all, you mean the question?

367 Q-Now I want the information, if I can get it, -I want to know the extent of your knowledge? A-Well, I do recollect that Joseph Smith, and Strang, and it had no very much to do with the Kayes and Cowins in authority, -that is with the Saints Kayes and authority that Joseph and Strang had.

368 Q-Then there was not any President in the church in the Lord in the sense that Joseph Smith was, by virtue of the revelation, or did he claim to be? A-Well, I don't know.

369 Q-Well has there any body got to be, by virtue of revelation, or in any other way, or all other revelation or is any other way? A-No sir.

370 Q-Was there any? A-Well I don't know exactly how to answer that question. Strang, by virtue of the revelations that they have made.

371 Q-Well do you mean by any or all either by revelation or by the Lord or by any body else, or any other power? A-I do believe certain revelations.

372 Q-Well who is it,-is it Lyons? A-No sir.

373 Q-Is it Lyons? A-Or rather it was Fisher.

374 Q-Well who is it? A-Well from my stand point and conviction that I have made of the successorship, the right of succession, of course that we in the church have to adhere into xxx in Young, Joseph or otherwise.

375 Q-Do you mean the present President of the Re-organized church of Jesus Christ of Latter Day Saints in Lamoni? A-Yes sir.

376 Q-Then you claim that Joseph Smith is the President of the church by virtue of the appointment of the Lord or in some other way? Is that your claim? A-No sir not, by appointment of the Lord.

377 Q-Well how is it, if not in that way? A-By virtue of an ordination that he got under the hands of Strang one in no other way. Now that is the way I know it to be and you have got it right straight for Kelley.

378 Q-Then the leadership of Joseph Smith in the original church when he died descended on Strang, according to your way of looking at it? A-You mean Joseph the Prophet?

379 Q-Yes sir? A-Yes sir.

380 Q-Strang succeeded as President after Joseph Smith the Prophet? A-Yes sir.

381 Q-And Joseph Smith succeeded Strang by virtue of the ordination of Strang? A-Yes sir. Young, Joseph Smith, according to the same priesthood that Lyman Wight had, but not to the priest hood that Joseph his father, and Strang had. He holds a lower priesthood or

382 Q-Well I don't care anything about that priesthood I am just trying to find out who is the man?

383 Q-Do you claim that he is President of the church? A-Well that depends.

384 Q-Well you claim that he is President of the church by virtue of that, or, nevertheless-that-fact, Strang, conferred upon him? A-I do but I do not claim that he is the President of the church in the sense that I am St. Joseph.

385 Q-Well in that case how do you hold that he is the President of the church? A-He is the President of the church but not the President of the church in the same way because he does not hold the keys.

386 Q-Well you claim that he is the acting President of the church? A-Yes sir.

387 Q-But, does not hold all the powers that I claim? A-Yes sir that is what I claim but he does not hold the same degree of priesthood that Joseph held or that Strang held, and

388 Q-He does not hold the same powers.
A-No sir he does not hold the same power that Strang held.

389 Q-At the same time he is the President of the church and in the lineal succession to the original church? A-Yes in the same sense of authority that I have of in the original church.

390 Q-Joseph Christ of Latter Day Saints.
A-Yes sir in the line of succession to the original church? A-Yes sir the priesthood he has is the same priesthood that Strang had, at least I hold that-in that way.

391 Q-Well that is the position you assume with reference to the office and powers that Joseph Smith did not hold, Reorganized church of Jesus Christ of Latter Day Saints? A-Yes sir,

392 Q-Do you remember this morning, the names of John E. Page and William B. Smith, and a number of other gentlemen,-probably twenty in number, that originally went with Strang or were with the organization of which he was recognized as the head? A-Yes sir they were recognized as the head of the organization of

which James J. Strang was the President, and that was the original church.

393 Q-Strang was then was in your opinion the President of the original church? A-Yes sir, and he was so by virtue of an appointment to that effect from Joseph Smith.

394 Q-I'll go on with the branch that we were on, - do you say that all those men lived and died members of the organization? A-No sir I do not say anybody today.

395 Q-Do you or do you not say that is the fact? A-No sir it is not a fact for some of them went off.

396 Q-Will you continue on it until they do? A-I'll try to do so. Q-Go on, - Sir go ahead.

397 Q-Who was John Jolin Strang? A-I'll not [illegible] I can't tell you the exact date. That is immaterial, for I can't remember the date in this [illegible]. I [illegible] to Voree [illegible] I [illegible] to [illegible] Strang.

398 Q-I'll now ask if it was not Elder Page who called in the [illegible] and did not die in it at all? A-I [illegible] but I don't [illegible] Oh, no, I collect [illegible] that, for [illegible] Voree [illegible] organized [illegible] Voree [illegible] I [illegible] Elder Page [illegible] in [illegible].

399 Q-I'll ask that not? A-Yes sir.

400 Q-[illegible] Strang died? A-In 1856.

401 Q-[illegible] A-[illegible] Lyman Wight.

402 Q-Did you not continue with the church [illegible] Brother Strang died? A-Until Strang died.

403 Q-[illegible]? A-No sir.

404 Q-[illegible] 1856 too, didn't it? A-Yes.

405 Q-[illegible] Page [illegible] the Strang movement? A-Oh yes, he was. There is no doubt about that, - he was with Strang. You did not [illegible] with Page who was the first man to [illegible] that James Strang is a true [illegible].

406 Q-[illegible] Page [illegible] Elder Page in [illegible] Page? A-No sir it was not Elder Page [illegible] Elder Page and John [illegible] all of them;

407 Q-I'll if that is the case, and John E. Page was in connection with that church, that would you not [illegible] [illegible] on the name of John E. Page? A-I'll [illegible] I think it I am not mistaken.

408 Q-[illegible]? A-In this book or the other one (referring to [illegible] "Tor an "Voree").

409 Q-I'll is his name in either of them? A-I think it is. I don't say that it is out I think it is, but it [illegible] whether it is or not John E. Page was [illegible] or not.

410 Q-I'll was John E. Page with you in 1856? A-I think so.

411 Q-He was out of Strang's organization before that time? A-Yes sir I think so.

412 Q-And William B. Smith also went out, or was kicked out in some way? Is that the fact? A-Oh yes, he was [illegible].

413 Q-You did that also? A-The church did.

414 Q-And that was before 1856 also? A-I don't remember I do remember

that he came to us,but I don't remember when he was cut off.

415 Q-Well now I don't care when he came to you,-I am asking you-when he got out,and not when he got in? A-Well that is what I am telling you,-I don't know when he was cut off or "got out"as you put it.

416 Q-Well William S. Smith you are positive was a member of xxx Strang's organization? A-Yes sir.

417 Q-And you don't remember whether or not he got out of it before 1850? A-No sir,the date I am not able to tell you. I remember that he was in there, but the date that he was cut off I can't tell you.

418 Q-Well is the date according to your best recollection? A-Well no I am going to tell you something about it,but you interrupted me and so I go on. I remember that he came there to quarter 150, and I wanted us to identify him as the Patriarch in the church, and Strang told us he could not do it but "Jesse Joe" was the Patriarch,and William was going again in the world to be one to do it.

419 Q-Well you remember you say that that was after 1850? A-Yes sir.

420 Q-Well now can you give us any organization of Strang's organization? A-Well I can't say. I have told you I hadn't been there but a few days I could not tell you. My recollection will show when it was I think. I am sorry perhaps I can't tell you.

421 Q-Well I want you to tell that from your recollection,is that so? A-Well that is my opinion that I could not say,for I haven't any minute memorandum of yours. I haven't written down the dates for years.

422 Q-Well state just the time as near as you can,for I am not going to be technical as to six months or three months or a year? A-Well I cannot tell within six months or a year either,for I have not devoted my attention to carrying the dates in my mind,-I have other business to attend to.

423 Q-Well it was not there from 1846 to 1850 was it? A-Well I think it was,but I could not be positive though as to the time.

424 Q-Well was it after 1850? A-I cannot say.

425 Q-Did you not state that William Marks presided long-to the organization? A-Yes sir.

426 Q-Well then did Marks leave? A-Well now I can't say you have me again, but he was,-Marks left.- We dedicated the temple ground there at Voree,and I recollect that he was there then for he helped lay the corner stone.

427 Q-You that the Strang temple? A-No sir,it was the church temple.

428 Q-Well what did you call it? A-We called it "the temple". We were going to have a temple there the revelation have been,and this temple was to be called "To Smith's temple". We were going to have a temple there.

429 Q-Well did you dedicate the temple to God? A-No sir, we did not. We slipped upon it,for while we did not have a thing to dedicate the temple we did dedicate the ground for it. I remember that Marks was there and he had my tithing there,and he brought a man,on and it is on record that he said it in. I remember the occasion of the dedication of that ground on which that corner stone was laid xxxx with xxxxxx xx xxxxxxxxxxxxxxxx. [illegible] the [illegible] was [illegible] to [illegible].

that he came to us,but I don't remember when he was cut off.

415 Q-Well now I don't care when he came to you,-I am asking you-when he got out,and not when he got in? A-Well that is what I am telling you,-I don't know when he was cut off or "got out"as you put it.

416 Q-Well William H. Smith you are positive was a member of the Stranger organization? A-Yes sir.

417 Q-And you don't remember whether or not he got out of it before 1882? A-No sir,the date I am not prepared to tell you. I remember that he was in the Ro, but the date that he was cut off I can't tell you.

418 Q-Well state the date according to your best recollection? A-Well now I am going to tell you something, but you interrupted me and so I do not go on. I remember that he came there to quarter and I went to see him to invite him to the Patriarch Club and Stranger, and he said he could not go it was a "Yank, Joe" in the Patriarch,and I went around to the Club room and then he came out of it.

419 Q-Well now you remember you say that this was after 1882? A-Yes sir.

420 Q-Well now can you give us any or part of organization or institution? A-Well I can't say. I have told you all I can,but I will show when it was I think. I have the record and perhaps I can tell you.

421 Q-Well I want you to tell that from your recollection, if you can? A-Well that is so long that I could not say,for I haven't thought about it for years. I haven't anything that for the date for you.

422 Q-Well state, but the time as near as you can,for I do not come to technical as to six months of time or even a quarter? A-Well I cannot tell within six months or a year either,for I have not paid attention to carrying the dates in my mind,-I have other business to attend to.

423 Q-Well if you can where from 1882 was it, near? A-Well I think it was,but I could not positive though as to the time.

424 Q-Well was it after 1882? A-I cannot say.

425 Q-Did not you stated that William Jones also belonged to the organization? A-Yes sir.

426 Q-Well how did Jones leave? A-Well now I can't say you know I was absent. But he was left,-Jones left.- We adjourned the meeting around there at Vo's,and I recollect that he was there then for he helped lay the corner stone.

427 Q-Was that the Stranger temple? A-No sir,it was the Stranger temple.

428 Q-Well what did you call it? A-We called it "the temple". We were going to have a temple there and if you have seen, and this temple was to be called "The Smith's temple". We were going to have a temple there.

429 Q-Well if you dedicate the temple to say? A-No sir, we did not. We slipped upon it,for while we did not have a chance to dedicate the temple we did dedicate it in form for it. I remember that back in the 80 we had a gathering there,and he brought a man, and it is on record that he said it in. I remember the occasion of the dedication of that ground [illegible] that the corner stone was laid [illegible] [illegible] stone was [illegible].

430 Q-Is this the book that refers to the title or to the property being in Joseph Smith? A-No sir. I don't [illegible] that you [illegible] hardly.

431 Q-Well you read something out of a book here that [illegible] to the title to some property being in Joseph Smith,-that book was that that you read [illegible]? A-Well it was this book here, but it [illegible] It referred to the [illegible] Kirtland, Ohio, and this that I [illegible] being [illegible].

432 Q-[illegible] in that book as to the state- [illegible] title to the property in Kirtland? A-[illegible] I [illegible] told you as to its [illegible] want of [illegible].

433 Q-[illegible] It [illegible], for what- [illegible] or its [illegible]. I [illegible].

434 Q-[illegible] statement [illegible] title to [illegible] property was in Joseph Smith? A-[illegible].

435 Q-You are satisfied that that statement is true? A-[illegible].

436 Q-[illegible] successor? A-[illegible] sir, and I am satisfied [illegible] at that trail.

437 Q-[illegible]? A-Well they [illegible] want to [illegible].

438 Q-[illegible]? A-Well [illegible].

439 Q-[illegible] remained with Strang until [illegible]. Did you know [illegible] Miller?

440 Q-[illegible]? A-No sir he did not.

441 Q-Did you know Bishop Miller? A-Well there were two of them.

442 Q-Well which one do you refer to? A-George Miller [illegible] bishop in Nauvoo, and he [illegible] with Strang until he died. [illegible] with Strang, and [illegible].

443 Q-Well [illegible] other man called Reuben Miller? A-Yes sir. Reuben Miller was a Bishop in Nauvoo, if I recollect [illegible], and he left us and went to Brigham, and if I [illegible] right he died a few years ago in Salt Lake City.

444 Q-Then [illegible] not the Miller that remained a member of Strang's organization until he died? A-No sir.

445 Q-Well [illegible] Brigham also leave Strang's organization? A-Yes sir. He left us as you say, and we were very glad to get rid of him.

446 Q-[illegible] too,-he left? A-Yes sir, and we were glad to get rid of him. I remember him, and he was a bad [illegible], for he stole a pair of tongs from us.

447 Q-Did the two Posts? A-No sir,-one of them did, and the other did not.

448 Q-Did not Stephen Post leave your organization? A-I think that Stephen did, but I don't know that [illegible] did.

449 Q-And Thorton died in the harness too, didn't he? A-Well yes sir I think he did.

At any rate I got a letter from his son to that effect.

450 Q-Well did Samuel Thorton die a member of the Strang organization? A-S.S. Thorton died I think in Idaho a member of the Strangite church. If his son wrote me the truth he did for his son wrote me that that was the fact. He wrote me within the last six or eight months that his father died in the same church, but of course beyond that I don't know what he did, or what church he died in.

451 Q-Did you know Samuel H. Gurley?

452 Q-Did you? A-Well he left us or we left him,-I don't know which it was.

453 Q-What time did he leave you? A-Well this was along in '47 or '48.

454 Q-What kind of man was that? A-Samuel H.-very nice old man.

455 Q-Will you do you know it was a pair? A-Well it was a pair. I was well acquainted with him.

456 Q-Is it the case prior to on page thirty four of this little book, exhibit "F"? A-Well you know all the time, and now I remember about it. I remember that I had come down to Nauvoo to buy a suit of clothes for myself. Gurley was there and I bought the clothes on credit in the fall, and on my way back Gurley came up with me for several days, and we was with us at our camp fire, and he was entitled the "Young Lion" work then, but he was there at our camp fire. I remember that circumstance now as right well. I remember that for he told me all about it in his own life.

457 Q-Well now if you are through, I will ask you if you did not collect to page thirty four of exhibit "F", this one? A-I think so,-I guess so. I guess it is no doubt of that.

458 Q-Do look at this, and read that line? A-"Nov 6 and 8 1844 contract S.H. Gurley, he agrees to pay" Q-Stop. Is that what you read? A-Yes sir. Q-Is that written that way in it? A-Well no I don't know. Let me look at what it that is written in pencil "n.n." Go on sir.

459 Q-Is it not written "n.n."? A-I think so.

460 Q-Don't you know that it is? A-I am not sure, I could not say.

461 Q-Don't you know it is "n.n."? A-Either I don't know anything.

462 Q-Don't you know it is some letter other than "%"? A-No sir, I don't know but the writer of that letter intended to make it "n" or "m". I will say that it looks so- a combination like "%".

463 Q-Is it "%"? A-Well if it was intended for "%" it is a bad "%".

464 Q-Does it not look like an "n"? A-No it looks like an "m" if it was "n" then it looks like "%".

465 Q-Is it not in fact an "n"? A-No sir I could not say that it is.

466 Q-Will you say it not Samuel H. Gurley? A-No sir I don't know-it may.

467 Q-Will you swear it was not Samuel H. Gurley? A-No sir.

468 Q-Will you swear that it does not refer to S.H. Gurley? A-I will testify to this that that refers to Samuel H. Gurley?

469 Q-Satisfactorily? A-I will swear from my understanding.

knowledge of the circumstances, and the programme that it was Zenas H. Gurley. From the programme of the old-time T will swear it was him, and that is all I can say.

471 Q-Do you not read "Z.H. Gurley"? A-It might be that, but I don't say it reads that way.

472 Q-Will I want to ask you down to some things,-did it read "Z.H. Gurley"? A-I understand that that is what the printer intended to print, but it seems to me that I do not know much about the way a "Z" looks or I could have made a better on than that. But all I know about it,-my understanding is that the printer intended it for a "Z".

473 Q-Is the letter "Z" there at all? A-Well sir, I have been to that question about as many times as I propose to answer it. I am perfectly willing to do so as saying that I have said twice it was or I do not propose to say. I don't say it is a "Z", but I do say that is the way I understand it.

474 Q-Who do you understand that it refers to? A-I say I understand that it refers to Zenas H. Gurley. That is the writer of that intended exhibit. There is no doubt in my mind as to that sir.

475 Q-There was an H.H. Gurley too, was there not, and Z.H. Gurley? A-I guess you have better accounts-there was Gurley's father, I am,-

476 Q-Well, I don't care about that I am,-do you not also prove that? A-That, I guess?

477 Q-Did it? A-I don't, more as I could say I can't any more than it.

478 Q-If you do not, you do prove it, or is there any other way it can be proved that you know that, you know the party to whom it intended to write the name Z.H. Gurley? A-No sir, I don't know the circumstances of the time of the conference, and at that time I prove

479 Q-Well, is it true, Mr. Gurley, that you have at some time been called Gurley that is your name? A-Oh yes, many times.

480 Q-Do you prove it so? A-Why, I have been called Gurley that is the name I go by.

481 Q-Have you only been called Gurley that you can say about that, yes or no,-is that what you say? A-Yes sir.

482 Q-Did you not also that Zenas Gurley go by? A-Yes sir I do not care on that point, I don't know that, I don't know that, I don't know.

483 Q-Do you not, in that connection? A-Yes sir, I don't recollect anything about him. I could not say that he was not with us, for he might have been for all I know to the contrary.

484 Q-Do you not jump at the conclusion that it was Z.H. Gurley that was there, because you have in the book which you note in your hands,-that is, if you see the name of "Gurley" in the book at the conclusion that it was Z.H. Gurley on that account? A-No sir. Mr. Gurley I mean the time to jump at conclusions. I don't jump at conclusions sir. I know what I am talking about sir. I do object in jumping at a conclusion or anything like in this case, for it is nothing to me, but I do object to a man whether it was Gurley or some other of his boys. I simply tell it and give you my belief regarding it, and that is all I pretend to do. There is one thing however that I don't want you to be in any doubt about, and that is that the old man was there, for I saw

him there and know that he was there.

485 Q-By the old man,you mean Zonas H. Gurley? A-Yes sir. I saw him there,and I know that he was there.

486 Q-Did you ever see the man that did the writing in this book exhibit "T02"? A-Let me see the writing.

487 Q-I'll take it and examine it(handing witness book) and state if you ever saw the man who did that writing? A-I can't say that I did to know who it was [illegible] different peoples did the writing in this book,and of course I saw the man that did it for I must have seen every one that were in that room,but I don't remember who it was did the writing in that book at that place. Wait a minute until I examine it,-Oh yes sir I see now,-Mr Hall was the person and Strand was the person out. I recect he had in that writing there.

488 Q-Were you acquainted with him? A-Only I saw. Of course I saw.

489 Q-Well is that his writing there? A-I can't say. It looks like it but still I could not be positive as to that.

490 Q-Well who wrote on thirty four in exhibit "T02" A-Who wrote this here(referring to page indicated in the book)?

491 Q-Yes sir,-who wrote that page? A-Well I made it from the signature here,and the names in it I think Hall wrote it. He is the man who signed it as the clerk and I think it is more than probable that he wrote it.

492 Q-Do you know from looking at the writing who wrote it? A-Well I will tell you Hall was a neighbour of ours on the Island,and he [illegible] writing around there,and at that time of course I was familiar with his writing for many years. He was [illegible] time,I mean,by [illegible] to identify this as his writing,[illegible] I think there is no doubt but that he wrote [illegible] writing [illegible] like this. I [illegible] writing [illegible] for in fact [illegible] for that I have not.

493 Q-Do not the same hand that wrote "[illegible] Strand [illegible]"?

494 Q-[illegible] you not to tell by looking at it? A-[illegible] Strand is to [illegible] that is the way I would [illegible] or to verify.

495 Q-[illegible] your best judgment as to the [illegible] on [illegible] thirty five? A-I think it is his signature.

496 Q-Well there is no doubt about that,but what is your best judgment as to who wrote it? A-I think that [illegible] Hall [illegible] to that,but that is what I would [illegible] to verify.

497 Q-Well it strikes me that that is what you are called on to do,-to verify,-and that is what I want you [illegible] A-Well that is right,-that is what I say then.

498 Q-I [illegible] every word you [illegible] A-Well that is all right too,-I don't see why it is.

499 Q-Will not that be your best judgment as to that being Strang's signature there on [illegible] thirty five? A-You deny this? do you want me to tell you that I think Strang wrote his own name there.

500 Q=Do you know when exhibit "T02"was written? A-I don't know anything about it only what the dates show. I did not keep the records myself,that is sure

[illegible]

and so I gave it to them for that reason.

5I4 Q-How did you come to regain possession of it? A-Well after they had it some time I let them know in a manner that they could not mistake, and which showed that I was in earnest, that I wanted it, and when they understood that I meant business they sent it back to me.

5I5 Q-Now you read in your direct examination from page one hundred and fifty eight of exhibit "I01"? A-Yes sir.

5I6 Q-Now who made the erasure on that page? A-I don't know anything about an erasure.

5I7 Q-Do you say that you do not know anything about an erasure? A-Yes sir, I don't know anything about it.

5I8 Q-Don't you know that there has been one word erased there on that page? A-No sir, I don't know that there has been.

5I9 Q-Will will you look at the page one see? A-I can't know anything about it(witness takes the book and examines it). There seems to be a blot there but I can't know that it is an erasure,-It seems to be to be a blot there.

520 Q-Will didn't there a word erased there? A-I can't know.

52I Q-Was not the word "apostate" there, and was it not afterwards scratched out? A-I cannot tell you.

522 Q-You can't see that? A-There seems to be something the matter with it. It may be that there was a word scratched out, but it looks to me more like a blot, but still there may be a word scratched out.

523 Q-You have had that book all the time? A-Yes sir.

524 Q-Will you tell me on of the three appointed as a committee to take care of it? A-No sir. I was not the one that took care for it all the time, for I said that I was removed it from me.

525 Q-Will you are on of the committee of three that was to take charge of it alone, with with other people? A-Only I.

526 Q-And it has been scratched there? A-Well there seems to be a blot there, but whether it is intentional or accidental I could not say.

527 Q-Will you take a good look at it, and say whether or not it has been scratched? Put your glasses on and examine it? A-Well I have examined it. I have seen it, and I say I couldn't say whether it has been scratched or if it is only a blot. I don't say anything about scratching, and if it has been scratched out, I don't know anything about it.

528 Q-Will do you say it is not scratched? A-No sir, I say I don't think it has been scratched,-it is blotted in some way as it looks to me. I don't see where anyone any one could have in scratching it.

529 Q-Well if it was blotted, can you discover what word was there before it was blotted? A-No sir. It says William Smith, and then it goes on and says he was excommunicated.

530 Q-Can't you see the last letters there, a "t" and an "e"? A-No sir.

53I Q-Well was not the word "apostate" formerly written there, and then scratched out? A-No sir. There is no word in, either in on this point, for I could not tell you anything more about it than I have.

532 Q-Who wrote that book exhibit "I01"? A-Well it is what it purports to be,-a church record.

533 Q-Will who wrote it? A,Well whoever was the clerk at the different conferences wrote it probably.

534 Q-Well who was that? A-I can't say who was the clerk for I was not at all the conferences.

535 Q-Were you at any of them? A-Yes sir,I should think I was.

536 Q-Is there any hand writing in there that you recognize as the writing of any one in particular?A -Yes sir there is.

537 Q-You recognize one hand writing in there? Is that what I understand you to say? A-Yes sir.

538 Q-"Yes" is it? A-Hilbert Watson's. I think that is Hilbert's hand writing.

539 Q-Do you say that is his hand writing? A-Yes sir,I think it is.

540 Q-Do you know that handwriting there? A-Yes sir,I think so.

541 Q-Well now see whose signature is to it? A-Well it looks like it: "Hilbert Watson,Clerk".

542 Q-Is there any other signature there? A-Yes sir.

543 Q-Well who is it? A-I see J. Irvin Stewart.

544 Q-Did you see the same hand write both signatures? A-No sir I do not say so. I don't think it is.
I could not see that "James J. Stewart" was written by the same hand that wrote "Hilbert Watson".

545 Q-Well is that "James J". Stewart's signature? A-I think it is.

546 Q-Will I could like for you to point out that signature,-is that the signature that was on Stewart's petition in his own handwriting? A-I say I think it is. I don't pretend to tell you positively. I have to do the best I can. I don't pretend to say that other charters have been added since, or pretend to tell right away it, for I did not have it all the time I told you, and I have not looked it over the last, I got it first. I haven't had it in my possession since the time that it was introduced and it was not I tell you sooner.

547 Q-You do not know positively that that is James J. Stewart's signature or not? A-No sir,I do not. I believe it is but still I can't swear and I will not swear positively to it, I don't know.

548 Q-Could you not James J. Stewart's name if you saw it? A-I don't know I could or not.

549 Q-Look at page twenty five of exhibit "B.", and state is that the signature there? A-Well I should say it is.

550 Q-Well is it his signature? A- I could not say,but it looks like it is. I could not be positive however, to say that it is or not.

551 Q-You could not swear to it? A- No sir I could not swear to it one way or the other. You see it is a matter of many years,-since I saw any of Stewart's writing, and so I couldn't say positively.

552 Q-Well from the proof that you have all to do, are you should be able to identify his writing? A- Well I know that,but that don't say anything, are I do not see any more about it, I know, a very little and all that,then you do,and you see very little I take it.

553 Q-And is that the one that you say,-is the signature in that? A-Well that looks natural,-that is Stewart's writing,-I could tell that any where. That looks like his writing,but when it comes down to the full naked fact I could not say positively as to that either.

554 Q-Are these two signatures written by the same man? A-I don't

[illegible] nor whether they were or not. I can't say as to
[illegible] but I don't think they were.
555 Q-What is your best judgment with reference to the
[illegible] of Strong on May twenty five and the
signature of Strong on June twenty five? A-I don't
[illegible]?
556 Q-[illegible] to [illegible] having [illegible] a written by the
[illegible] A-I will not I will tell you,-
557 Q-[illegible] I want to answer to [illegible]?
Court, [illegible] I will object to the question [illegible]
the witness [illegible] the [illegible] for the reason that it calls
for [illegible] the witness.
A-Also I will tell you that I could think [illegible] so
[illegible] that [illegible] that [illegible] that it was;
[illegible] If you were to see [illegible] it is, [illegible]
[illegible] I could [illegible] say that I could [illegible] you
[illegible] to ask [illegible] it is not,-that is [illegible]
[illegible] Strong's [illegible], I could say to
[illegible] say, for I could not say it [illegible] I
558 [illegible] Q-[illegible] "if" [illegible]
[illegible] of [illegible] Strong [illegible] or
[illegible] by [illegible]
[illegible] of [illegible] it "if"? A-I don't [illegible] I
[illegible] that I [illegible] I [illegible]
[illegible] for [illegible] [illegible]
[illegible] they [illegible] not, they [illegible]
[illegible] for [illegible] [illegible] other
559 Q-[illegible]
[illegible] A-I [illegible] the
[illegible] of the "if" [illegible] I [illegible] the
[illegible] [illegible] [illegible]
560 Q-[illegible] fact? A-Yes sir.
561 Q-[illegible] is [illegible]? A-[illegible] I do think
562 Q-[illegible] not [illegible]
[illegible] do not [illegible]? [illegible]
[illegible] but that [illegible] I [illegible]
[illegible] of [illegible] by [illegible] that Strong
[illegible] it, for I do not say it
563 Q-You say that was [illegible]? A-[illegible]
[illegible] [illegible] [illegible]
564 Q-[illegible] living now? A-[illegible] last [illegible] I
565 Q-[illegible] living [illegible] in [illegible]?
566 Q-[illegible] living [illegible] in [illegible]? A-What [illegible]?
Q-[illegible] in [illegible] don't [illegible]? A-[illegible] sir
567 Q-[illegible] that [illegible] the [illegible]? A-[illegible] sir.
568 Q-[illegible] [illegible] living? A-I think [illegible] living in
[illegible] about [illegible] or six miles from
[illegible] living there. I know for I was at [illegible]
569 Q-[illegible] if you know you may state
[illegible] or not? A-He was a farmer,-a
570 Q-He was a farmer? A-Yes sir, and I think he has
[illegible] property. He ought to have it if he has not,
in his [illegible] possession of them, and has time
[illegible] time that he left

for we had to leave the Island, and did not have a great deal of time either to get ready to leave in either. We had to get up and get, that was about the way it was, and he had some of the records in his possession at that time, and I think he has them yet.

571 Q-What records do you refer to? A-I can't tell you. I just saw what he had at the time up there in the most of the books he is holding, and I think he has them yet.

572 Q-Do you recall the article with reference to marriage in the church prior to June 7th 1842? A-I will say for myself that I do not recall to have had it on file, and I know, or I do not know it. That is my understanding of it.

573 Q-[illegible] A-Yes sir

574 Q-[illegible] that [illegible] by [illegible] of a [illegible]? A-The [illegible] or [illegible] by [illegible] I do not know identify or recognize any [illegible] for this new and [illegible] revelation, [illegible] in [illegible].

575 Q-[illegible] I could not exactly understand [illegible] I [illegible] that a [illegible] by that the [illegible] authority was not [illegible] in the [illegible] government, and [illegible] that it was not a [illegible] in [illegible].

576 Q-Do you say that [illegible] of the [illegible]? A-Yes, sir.

577 Q-[illegible] law? A-Well there is one [illegible] of the Book of Covenants said that [illegible] into [illegible] time [illegible] one [illegible] the [illegible] covenant [illegible] the [illegible] the question come up in [illegible] of the [illegible] at the time [illegible] whether or not it was valid [illegible], and it was [illegible] that it was not valid [illegible] not, [illegible] it was held [illegible] not valid.

578 Q-I will refer you to book [illegible] and see if you [illegible] that that section on [illegible]? A-Well I think I can.

579 Q-Well if you can do so I will be under an obligation to you, for I would like to see it? A-Well I have [illegible] and if you will give me time I will try to do so.

580 Q-Well if you can do that we will give you all the time you want to do so, for we have from now to the Truth day or daily to ask your testimony in it is necessary to take that much time. A-Well I will try and do what I can do.

581 Q-Look at page three hundred and twenty-nine, and see if that is that you want? A-No sir I don't think it is. There is no section on that. Did you say page three hundred and twenty nine?

582 Q-Yes sir? A-Oh I was mistaken. I thought you said two hundred and twenty nine. No that aint the one. It is another one. I can't readily find the one I intended to for I have not had occasion to look at it for a long time, and I can't find it off hand, but I have not given it up yet, for I guess I will find it. I thought I could posted on that as the hand I have, and they have had time to look where it is, as then I have.

583 Q-Will have you found it? A-I have.

584 Q-You are sure you have found it? A-I think so.

585 Q-Will read it? A-Page one hundred and three, revelation twenty,-I mean section twenty, being a revelation to the church of Christ it reads,-"Revelation to the Church of Christ which was established

for we had to leave the Island, and did not have a great deal of time either to get ready to leave in either. We had to get up and get, that was about the way it was, and he had some of the records in his possession at that time, and I think he has them yet.

571 Q-What records do you refer to? A-I don't recall now, but I remember what he had at the time up with the rest of his books and in his library, and I think he has them yet.

572 Q-Did you use the result with reference to marriage in the church prior to June 9th 1843? A-Well I for one, I know I did, I used to have put on cards, and I have performed the ceremony. That was my practice.

573 Q-Did you publish to the world in any form? A-I did not, sir.

574 Q-I will ask you that question that was asked you by Judge of a similar character, I believe you remember? A-The revelation on the celestial marriage was not published by the Church in any form for the purpose of having it canonized into.

575 Q-I will ask you simply a question here, Mr. -Well, I will say that a marriage by which we mean the publicity was not carried on like marriage, covenant, and was considered. That it was not, considered valid in the world.

576 Q-Do you say that was the law of the church? A-Yes, sir.

577 Q-Was it the law? A-Well there is one of the rules of the Book of Covenants said that if you were married in three days from that time it done, and the question came up in the city of Nauvoo, as to the validity of marriage, as to whether or not it was valid or not, and it was a doubt that it was not valid or not, valid or not valid.

578 Q-I will furnish you the book to look and see you if you want to point that out to me? A-I think I can.

579 Q-Well if you can do so I will be under an obligation to you, for I would like to see it? A-Well I have not got it by me, but, and if you will give me time I will try and do so.

580 Q-Well if you can do that we will give you all the time you want to do so, for we have from now to the 7th day of July to take your testimony in if it is necessary to take that much time. A-Well I will try and do that I can do.

581 Q-I want to call your attention to section twenty nine, and see if that is what you mean? A-No sir I don't think it is. There is no section on that. Did you say that was numbered one twenty nine?

582 Q-Yes sir? A-Oh I was mistaken. I thought you said two sections one twenty nine. No that what was one. It is another one. I can't readily find the one I refer to for I have not had occasion to look at it for a long time, and I can't find it off hand, but I have not given it up yet, for I guess I will find it. I think so well posted on that as the balance of laws are, and they have more time to look there than I have.

583 Q-Well have you found it? A-I have.

584 Q-You are sure you have found it? A-I think so.

585 Q-Will read it? A-Page one hundred and three, revelation twenty, -I mean section twenty, being a revelation to the church of Christ it reads,-"Revelation to the Church of Christ which was established

in these last days, in the year of our Lord one thousand eight hundred and thirty. Given April, 1830, in consequence of some desiring to unite with the church without re-baptism, who had previously been baptized.

Behold I say unto you that all old covenants have I caused to be done away with in this thing, and this is a new and an everlasting covenant; even that which was from the beginning. Wherefore, although a man should be baptized an hundred times, it availeth him nothing; for you cannot enter in at the strait gate by the law of Moses, neither by your dead works; for it is because of your dead works that I have caused this last covenant, and this church, to be built up unto me; even as in the days of old. Wherefore enter ye in at the gate, as I have commanded, and seek not to counsel your God. Amen."

586 Q-That is what you refer to? A-Yes sir.
587 Q-Do you claim that by that it abolishes marriage? A-Yes sir I claim that it does.
588 Q-Well explain how it refers to marriage? A-Yes sir it says "Behold I say unto you that all old covenants",- and it is that it says "all covenants", "all" means all, don't it?
589 Q-Then [illegible] that "all" [illegible]? A-Well I [illegible] to [illegible] When I was married,-
590 Q-Well now leaving out when you were married,- I will ask you if it is not a fact that the question [illegible] you have [illegible] in terms that cannot be [illegible] explicitly refer to the question of [illegible] that [illegible],-and does it not specifically [illegible] it [illegible] to anything else? A-No sir it does not.
591 Q-[illegible] of it if you please? A-I will [illegible],-"Behold I say unto you that all old covenants have I caused to be done away with in this thing, and this is a new and an everlasting covenant; even that which was from the beginning".
592 Q-What is the heading of it? A-"A Revelation to the [illegible] established in these last days, in the year of our Lord one thousand eight hundred and thirty. Given April 1830, in consequence of some desiring to unite with the church without re-baptism, who had previously been baptized". That is the way it reads.
593 Q-Now is there anything in that that [illegible] at it is? A-I have [illegible] it.
594 Q-Where is it? A-It states "Behold, I say unto you, that all old covenants have I caused to be done away with", -I would have you read it "all old covenants have I caused to be done away with in this thing, and this is a new and an everlasting covenant; even that which was from the beginning."
595 Q-Well is marriage an old covenant or a new one? A-It is just the same as baptism, or any other covenant. I can't see any difference. It says "all old covenants", and marriage is as much a covenant as [illegible] according to my way of looking at it, sir.
596 Q-It is? A-Yes, sir, what is the difference?
597 Q-Is there not a difference between [illegible] agreeing to [illegible] and agreeing to be baptized? A-[illegible] to be married and the other to be baptized, [illegible]
598 Q-Well now is that the only section there is in that book upon which you base that theory? A-I base it upon that section.
599 Q-And that is the only one? A-That is the section that I base all the covenants made by any man, woman or child, on earth, so far as church matter is concerned.
600 Q-Well now that is what you base that theory on? A-It is.

601 Q-We'll now read on page two hundred and twenty nine of exhibit "I", area road, out of section one hundred and [illegible]? A-Yes sir,-all right,-I have got it.
602 Q-We'll now read that section? A-Yes sol of it?
603 Q-Yes sir,-read the first,and then the first [illegible] section? A-All right sir, I will [illegible] "Section III, [illegible] utilized [illegible]

[illegible] laws; [illegible] of [illegible] that [illegible] high [illegible] cut [illegible]

604 [illegible]
605 [illegible]
606 [illegible]
607 [illegible]
608 [illegible]
609 [illegible]
610 [illegible] *taught* [illegible]
611 [illegible]
612 [illegible]
613 [illegible]
614 [illegible]
615 [illegible]
616 [illegible]
617 [illegible] was
618 [illegible] that.
619 [illegible]
620 [illegible]
621 [illegible]
622 [illegible]

641 Q-Well that is merely your opinion? A-I know it.
642 Q-Well let that pass. Now you said I believe in [illegible] that you have [illegible] that one set of circumstances? A-Yes sir. I have [illegible] that one set.
643 Q-[illegible]? A-[illegible] I let my object [illegible] [illegible].
644 Q-[illegible] K[illegible]?
645 Q-[illegible]? A-[illegible]
646 Q-[illegible]?
647 Q-[illegible]?
648 Q-[illegible] A-[illegible]
649 Q-[illegible] but I want to [illegible] Well I [illegible] that [illegible]
650 Q-[illegible]
651 Q-[illegible]? A-I [illegible] that I [illegible]
652 Q-Will you do [illegible] in [illegible] -you do not [illegible] until you [illegible] to do of [illegible] earth or [illegible]? A-Well I [illegible] -they claim [illegible] that [illegible] and that [illegible] strong [illegible].-
653 Q-Will you now [illegible] that they claim [illegible] or what [illegible] -just [illegible] my question, [illegible] that is [illegible] you will [illegible] to do? A-Well that has [illegible] to [illegible] I would not have [illegible] it.
654 Q-Will [illegible] you not say that you do not [illegible] to 1859? Is that not what you said? A-I do not [illegible] in [illegible] it.
655 Q-Will [illegible] you believe in it? A-I say I do not [illegible] opinion, it [illegible] the constitution(r.- [illegible] "I".)
656 Q-Will [illegible] the constitution that Stamping out [illegible] you believe it was right, do you not? A-Yes [illegible] I [illegible] I know that I changed my views on the question of [illegible] polygamy.

641 Q—Well that is merely your opinion? A—I know it.

642 Q—Well let that pass. Now you said I believe in answer to one of my questions that you had more than one wife? A—Yes sir. I have had more than one wife.

643 Q—[illegible]? A—[illegible] I lost my first wife [illegible].

644 Q—[illegible]

645 Q—[illegible]

646 Q—[illegible]

647 Q—[illegible]

648 Q—[illegible] A—[illegible]

649 Q—[illegible], but I want to [illegible]? A—Well I [illegible] I recall [illegible]

650 Q—[illegible] A—Well I will tell you that I [illegible]

651 Q—You [illegible] by virtue of [illegible]? A—I don't [illegible] your information I will tell you that I [illegible]

652 Q—Well you did not [illegible] in polygamy,—you [illegible] set forth by Strang? A—Well I will tell you this,—they claimed to [illegible] faith [illegible] on that question and that [illegible] Strang [illegible].—

653 Q—Well you never mind what they claimed or what [illegible],—just answer my question, and that is all you will have to do? A—Well that had [illegible] to do with it, [illegible] I would not have practiced it.

654 Q—Well did you not say that you did not believe in [illegible] up to 1856? Is that not what you said? A—I did not believe in practicing it.

655 Q—[illegible] you believe in it? A—I say I did not [illegible] in practicing it under the constitution (referring to Exhibit "[illegible]".)

656 Q—Well [illegible] the constitution that Strang [illegible], you believed it was right, did you not? A—Yes [illegible]. I know that I changed my views on the question of [illegible] polygamy.

are under that administration endorsed polygamy.

657 Q-And practiced it also? A-Yes sir.

658 Q-And taught it? A-Yes sir, I believe it was practiced before that time,-well I believe I preached it on.

659 Q-How many times did you preach it? A-I did not preach it but one that I remember of.

660 Q-Yes-Do not, tell us the truth, you could have why, why did to [illegible] why they they do, do you? A-I [illegible] to that, for I do not know exactly how [illegible] it.

661 Q-You [illegible] truth why [illegible]? A-I [illegible] that they do. They say [illegible] I understand, [illegible] that they have [illegible] it.

662 Q-[illegible] many times [illegible] you? A-[illegible] not [illegible].

663 Q-[illegible] that to the [illegible] A-Well I [illegible] they take it that [illegible] [illegible] I know [illegible] it.

664 Q-[illegible] that? A-[illegible] I have [illegible] it, to-out, I never believe it.

665 Q-You [illegible] it during [illegible] life? A-No sir I do not, [illegible] it until [illegible] [illegible] anything about it, [illegible] it, to be [illegible]. I believe it [illegible] it, or [illegible] that it [illegible] to it, [illegible] that which has [illegible] it.

666 Q-[illegible] that, [illegible]? A-[illegible] I [illegible] my I believe in [illegible] polygamy. I have always [illegible] that the [illegible] polygamy, but I [illegible] that [illegible].

667 Q-[illegible] that you believe the [illegible] that the [illegible] of the church [illegible] [illegible] man [illegible] or [illegible]? A-Yes sir until this [illegible] [illegible] it [illegible].

668 Q-[illegible] the book of the [illegible] of the [illegible]? A-Yes sir [illegible] that [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible].

669 Q-[illegible]? A-[illegible] this [illegible] [illegible] the law of the kingdom, [illegible] [illegible].

Q-[illegible] by the south [illegible].-

670 Q-I only think it [illegible] [illegible] you [illegible] a little bit,-for a few minutes, and then I will [illegible]? A-Yes sir, I do, I do believe.

671 Q-I believe you have not stated [illegible] to that [illegible] you believed? A-What is that?

672 Q-[illegible] you [illegible] to state to what church you belonged? A-I belong to the church of Jesus Christ of Latter Day Saints as organized on the [illegible] of April 1830, and I never have belonged any other church or fraction or branch of a church, either that or any other since I was first baptized.

673 Q-Do you mean by that answer that you belong to the Reorganized church of Jesus Christ of Latter Day Saints? A-Not strictly speaking, and still inasmuch as I believe, to the same church that Joseph Smith does at Nauvoo and we have corresponded on this matter. [illegible] when he was baptized, and he never was baptized into any

other church, in the church that I was baptized into. That is the way it was,—we were both baptized the only time we were baptized into the same church, one spiritually in infancy by sprinkling in a manner he believed to be the church that he belonged to, in accordance with the order of his church, and our faith to the [illegible]

674 Q—[illegible] —do you [illegible] [illegible]

675 Q—[illegible] you, [illegible] [illegible] church.

676 Q—[illegible] —ship.

677 Q—[illegible] church?

678 Q—[illegible]

679 Q—[illegible]

680 Q—[illegible]

681 Q—[illegible]

682 Q—[illegible]

683 Q—[illegible] —tion? A—[illegible]

684 Q—[illegible] —tion? A—[illegible]

685 Q—[illegible] —tion?

686 Q—[illegible] —tion? A—[illegible]

687 Q—[illegible] —tion? A—[illegible]

688 Q—[illegible] —tion? A—[illegible]

689 Q—[illegible] —tion? A—[illegible]

690 Q—[illegible] —tion? A—[illegible]

691 Q—[illegible] —tion? A—[illegible]

692 Q—[illegible] —tion? A—[illegible]

693 Q—[illegible] —tion? A—[illegible]

694 Q—[illegible] —tion? A—[illegible]

695 Q—[illegible] —tion? A—[illegible]

Counsel for the plaintiff objects to the question as to the witness, on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper re-examination.

A-What is the question,-those gentlemen talking has thrown me off the track?

697 Q-I asked you to state what you know about the ordination of Joseph Smith, the present President of the Re-organized Church of Jesus Christ of Latter Day Saints, by [illegible],-now what we want is what you know of your own knowledge? A-Well [illegible] [illegible] [illegible]

[illegible] ordained,-[illegible] for if [illegible] such [illegible] with all the [illegible] that [illegible] held, [illegible] [illegible] and [illegible] out, and when I got to him I [illegible], I said "Joseph have you been ordained [illegible]", and at first he declined to answer, [illegible] he said "in time you will know", and then I said "[illegible] in you", and then he said "[illegible] to my [illegible], and when he [illegible] I was taken [illegible] with [illegible], and went

to bed".,and that is all I know about it"he said. Well I could not get any more out of him,and could not find out whether or not he had been ordained by Strang,at that time,or at any other time for that matter,but I learned that he had been ordained by angels to the office of prophet. Well after I had done all that I could I took the cars and went home, and shortly after I arrived home again I came in contact with two gentlemen who had been associated with Mr Strang while he was there on the island,and one of them was a man that was always around Strang, and if any body could get anything out of Strang he could,for they were both from [illegible],and I will say further that they were both first rate good fellows [illegible]. Well the way they came to [illegible] [illegible] before I had been down to see Young Joe, [illegible] I suppose. [illegible] he came to me he said "Hickey,I [illegible] you have been to Nauvoo to see Young Joe". One of [illegible] was Mr Smith from [illegible].-

698 Q-Well the question I asked you was what you knew about the ordination of Young Joseph Smith by Strang? A-Well [illegible], for I am coming to it. I will tell all that I know about that,and nothing more,but I would like to do it in my own way.

699 Q-Will you do it then? A-Well that is what I want,- I want to state these things in my own way.

700 Q-Well I [illegible] you, you [illegible] in the matter, [illegible] at it in your own way? A-Well [illegible] when I got back to [illegible] [illegible] in [illegible] these gentlemen [illegible] one of them said "Hickey you have been [illegible] Young Joe [illegible]", and I said "[illegible] you", and I said "[illegible]", and then he said "[illegible]". I am giving you my best recollection of the gentleman [illegible], and I do not pretend to give you the exact [illegible], but it is [illegible] stated. Well I said that I had been [illegible] and he had treated me like a gentleman. I told him that he [illegible] about Strang [illegible], and [illegible] bed, and as nearly as I [illegible] that I have mentioned who [illegible] or [illegible] and said to me "that is just exactly [illegible] he told to me, and he went into his room and [illegible]". Now William [illegible] the [illegible] that claims to have ordained Young Joe and Strang [illegible] told [illegible] to ordain that boy in Plano Illinois. Now that is [illegible].

701 Q-Did [illegible] told you that in Plano, Illinois? A-Yes sir.

702 Q-Is that the story of what you know about that ordination? A-Yes sir.

Counsel for the plaintiff objects to the last two answers [illegible] irrelevant and immaterial,and not the best evidence, hearsay,and moves the court to exclude them from the record [illegible],and because they are not responsive to the question asked.

703 Q-Now then I will ask you the further question as to whether that is all you know about the ordination of Young Joseph Smith by Strang? A-Yes sir.

704 Q-Well now what [illegible] do you know? A-Well you might say that I don't know that,for that is circumstantial evidence. Now that is what I know,and what I claim is that Joseph Smith,-about his being ordained,is first by Peter,James and John,-Now I never saw Peter

James or John, but I believe at the same time that Strang was ordained, and that ~~xxxxx~~ Joseph Smith was ordained in the first instance in the same way, and that Strang ordained [illegible] in that [illegible]. That [illegible] that I believe [illegible] is not [illegible] that I [illegible] I have [illegible] done.

705 Q- [illegible] to [illegible]

Counsel [illegible] objected to the [illegible] the [illegible] the answer [illegible] the witness by Strang [illegible] ordination of [illegible] Smith

706 Q- [illegible] above [illegible] of [illegible] told [illegible] but [illegible]

707 Q- [illegible]

708 Q- [illegible] about [illegible]

709 Q- [illegible]

710 Q- [illegible]

711 Q- [illegible]

712 Q- [illegible]

713 Q- [illegible] to [illegible]

714 Q- [illegible] know [illegible] with [illegible]

715 Q- [illegible] Young [illegible] the Patriarch of [illegible] Church [illegible]

716 Q-Well don't you know whether he did? A- [illegible] I don't know anything about it. I will say this [illegible] that I don't believe that Strang ever ordained him a Patriarch.

717 Q-But if he did it would be all right, wouldn't it, for Strang would not do anything but what was right? A-I presume not.

718 Q-Well the Lord would not tell him to-do anything that was wrong would he? A-Tell who not to do anything that was wrong?

719 Q-Well Stron, not to do anything that was wrong? A-Well I do not and I do wrong, sometimes, no so do you too I guess. We all do wrong at times, for no man can do at all times and I do not undertake to say when the Lord,-and I do not undertake to criticise the Lord and say-that he does wrong, sometimes, but I can say this or that thing,. But I can say that, I believe that the Lord does not deceive, no matter how it seems to us at the time. Or that he is not, or the Lord can an [illegible],-

720 Q-Well now the point, he commanded Abraham to do,- that is not an answer to my question? A-I know it,- I see on an answer to carry out the Lord's command, that in itself could not be wrong, but we know it was right, for the Lord is not, can that Abraham should kill Isaac, - [illegible] to us to do that, [illegible], [illegible] Abraham to do it.

721 Q-Will you or you [illegible], if you [illegible] I will [illegible] or you to [illegible] "I.F" on page [illegible] of the [illegible], (I [illegible] to [illegible] [illegible] ex- [illegible] "i.f"? [illegible] for any [illegible]? Q-[illegible] that [illegible] [illegible] exam- [illegible]

722 Q-[illegible] I [illegible] the Court and [illegible] their [illegible]. I will [illegible] first [illegible] why it was [illegible] [illegible] of the [illegible],- [illegible] there [illegible]? A-I don't know.

723 Q-[illegible] out here in the [illegible] "[illegible] to do"? If you [illegible] A-[illegible] I do, I should not [illegible] of it.

724 Q-Y[illegible] that, it [illegible]? A-[illegible] If you [illegible] it, I will tell you. ([illegible] taken [illegible]) [illegible] of the hand of [illegible] Stron, [illegible] the [illegible] of [illegible] to his [illegible] and [illegible] also to [illegible] cattle and [illegible] of the men of Gerar, in all the world [illegible] shall be [illegible] for [illegible] of [illegible] also [illegible] the [illegible] of the live".

725 Q-That [illegible] have [illegible] in [illegible] it, is it not? A-[illegible].

726 Q-[illegible] that Stron, [illegible] and [illegible] the patriarch of the [illegible]? A-I don't know what [illegible] it was or the day of the month.

727 Q-Do you know what year it was? A-I know when the revelation was given.

728 Q-When was it given? A-In [illegible].

729 Q-Then revelation was given then that Jos[illegible] would be the patriarch of the [illegible]? A-I [illegible] [illegible] Stron leads.

730 Q-Well it was after that that Stron went [illegible] and [illegible]? A-I don't know [illegible] out I [illegible] of course that it was after the revelation was given.

731 Q-He could not have [illegible] before that, is he? A-I could not say for I have [illegible] to [illegible], and you will have to settle that yourself, or [illegible] to look it up.

732 Q-The revelation which you say authorized Joseph Smith to be ordained as the patriarch of the church, you say that was given in the month of November 1843? A-Yes, sir. That is the way that reads.

733 Q-In my file at the minutes of the conference more recent on the eighty second and eighty third, also of exhibit "D", is one that Strang (???) was ordained the patriarch of the church? A-It doesn't seem any more at that.

734 Q-Do you see it, that he was ordained the patriarch? A-Smith, not Strang.

735 Q-Will it read, that William Smith was ordained the patriarch of the church? A-Yes, sir. [illegible] of it? What is it, sir?

736 Q-Will it, in the file I have, did not take much time to read his ordination, for it is as that he was a [illegible] only, but [illegible] over

737 A-[illegible] Q-Will you [illegible] that it.

738 [illegible] not? A-[illegible] church,

739 [illegible] not? [illegible] I don't know anything [illegible] church

740 [illegible] A-Well that, if it did [illegible] not [illegible] and it that [illegible] I would [illegible] that

741 [illegible] Q-[illegible] A-[illegible]

742 [illegible] that

743 [illegible]

744 [illegible]

745 [illegible] it

746 [illegible] not?

747 [illegible] of

748 [illegible] you

749 [illegible] not?

750 [illegible] A-I could not [illegible] I

751 [illegible] not

752 [illegible] that

753 [illegible] cubic

I can't remember with positive accuracy any of these things as to the date of the month, the month, or even the year in many instances. I have told you that time and again.

750 Q-Did you ever see Smith in '46 at all? A-I don't even recollect that I was there in '46 at all. I might have been, and it is likely I was. But I won't testify to it. But I won't testify at all. I was not there at all.

751 Q-[illegible] it is right, an answer to question [illegible] Smith, and you? A-[illegible] said it.

752 Q-[illegible] you testification [illegible] that you [illegible] A-[illegible] I don't, but it is right in danger of any debt, [illegible] to be [illegible] in xx all [illegible] dirty work,-not my [illegible].

753 Q-[illegible] it is [illegible] to [illegible] with him? A-I say it is [illegible] to [illegible] Smith,-to the [illegible] that I [illegible] in Nauvoo.

754 Q-You [illegible] that you [illegible] tion [illegible] into,that [illegible] organized in Nauvoo,-not that you [illegible] into the Church? A-Yes sir.

755 Q-[illegible] not [illegible] the [illegible] that a man could have [illegible] tion on? A-[illegible].

756 Q-It [illegible] not [illegible]? A-[illegible] probably not. [illegible] polygamy. [illegible] not [illegible].

757 Q-[illegible] you [illegible] to [illegible] tion [illegible] not? A-[illegible] to [illegible] to [illegible] that you [illegible].

758 Q-[illegible] it? A-I told you [illegible] Smith [illegible] my [illegible].

759 Q-A[illegible] it? No [illegible] believe in it [illegible] you? A-[illegible].

760 Q-[illegible] A-If I [illegible] I will say that I believe in it [illegible] doctrine given by God. It [illegible] believe the Bible by [illegible] I would say.

761 Q-Joseph Smith did not teach it? A-[illegible].

762 Q-You [illegible] say anything about it in the [illegible] it? A-No sir, I never [illegible] it in my life. I met him and I did not say anything about it.

763 Q-Did you [illegible] A-No [illegible].

764 Q-Did you ever hear [illegible] in that connection, [illegible] Smith, or [illegible] Joseph Smith [illegible] the President, of that course? A-Do you [illegible] Joseph

765 Q-Y[illegible]? A-I don't remember that I have.

766 Q-[illegible] the original church [illegible] the [illegible] Well I don't remember particularly for that [illegible]. There might have been [illegible] of the kind.

767 Q-Well it is a fact if it not that you and Joseph Smith and W. W. Blair don't agree. You would not speak to them or shake hands with them if you were to meet them at Coloy? A-Yes sir, I would not, and I would not go across the road to hear that person either.

768 Q-If Joseph Smith or Blair were to walk in the office

[illegible] Kelly,-you shall have them if you will [illegible] the postage.

761 Q-Well I would like for you to find them while you [illegible] A-Do you mean the original [illegible]

762 [illegible] -Well I don't know that I can do that. I [illegible] you would [illegible] them.

763 Q-[illegible] Well Sir I [illegible] Q. [illegible] A-I [illegible] I have [illegible] a little [illegible]

764 [illegible]

765 [illegible] want [illegible] Q-[illegible]

766 [illegible] -[illegible] I [illegible] out [illegible] ly [illegible] any

767 [illegible]

768 [illegible] any

769 [illegible]

770 [illegible] Q-[illegible] Sir, [illegible] A-[illegible]

771 [illegible]

772 [illegible] -[illegible]

773 [illegible] A-[illegible]

774 [illegible]

775 [illegible] A-[illegible]

776 [illegible] A-[illegible]

777 [illegible] A-[illegible]

778 [illegible] A-I don't know.

779 [illegible] A-I did.

780 [illegible] I did or not.

A-I [illegible] how that [illegible] I haven't any [illegible] about it.

781 Q-[illegible] I [illegible] you for your best recollection as to [illegible]

and I will never give him rest, or my children until
[illegible] justice. They have slaved [illegible]
[illegible] how I have labored long and earnestly
[illegible] they cannot be at peace with me until they [illegible]
[illegible] they have come to me and [illegible] that [illegible]
[illegible] speech of the [illegible] only in that they [illegible]
[illegible] what I do, or will I [illegible]
[illegible]

617 [illegible]

Cross [illegible] defendant [illegible]
[illegible]
cross [illegible]

[illegible]

[illegible]

Ember Mason of legal age, being produced sworn, and examined on the part of the defendants, testified as follows, Direct examination by Mr Southern,-

1 Q-State your full name please? A-Ember Mason.

2 Q-Mr Mason where do you live? A-I live about five and a half or six miles west of here,-out here on the old road,-

3 Q-What road is that called?- A-Well it was called the Westport road. That is what some people call it yet.

4 Q-Mr Mason you state how long you have lived there? A-Well sir that has been my home ever since the,- I have nearly all the time since '34. I came to this country in 1844 in the fall in August '44.

5 Q-Mr Mason do you travel from home, anywhere in the vicinity of the time since you came there first, when going to and returning from town here? A-Yes sir, I do.

6 Q-What road is that? A-The Independence and Westport road.

7 Q-Is that the road you have been in too and is called the "Lexington road"? A-It is this road here that we cut down,-this street out here that we call our street from here.

8 Q-Do you know the street that runs out here by the Mr Lee? A-Yes sir.

9 Q-It runs out here by the present Corcoran church, is it? A-Yes sir.

10 Q-On which side of the road is that? A-On the right hand side going out.

11 Q-On the right hand side going west? A-Yes sir.

12 Q-On which side of the road is the Mr Lee lot? A-Well the church as I said is on the right hand side as you go out from here.

48 Q-Well now if it did not,-well now if that fence extends east this way as you suggest,was there not another fence attached to it some where running east and west,and extending up this way further to the east? A-There might have been.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is leading.

A-Well sir I can't answer that question for I don't know for that is.

50 Q-Well sir that fence that you speak of inclose a field is there any corner?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is leading.

51 Q-Can you answer the question? A-What is it?

52 Q-Did that fence or did it not inclose a field any where? A-What fence?

53 Q-The fence you speak of? A-Yes sir.

54 Q-It inclosed a field? A-It did.

55 Q-Was there a fence there at any time before the war that did not inclose?

Counsel for the plaintiff objects to the question on the ground that it is leading.

Q-Well or perhaps it did I suppose. I don't know that I was over all around it,but they had stuff there in it.-Cotton did after they got it.

56 Q-Did you or did you not, this time you have testified about a time or the time of a field? A-Yes sir I do. It had the appearance of being fence.

57 Q-Well now with reference to this stone fence that, did you or did you not that it was of a field?

Counsel for the plaintiff objects to the question on the ground that it is leading.

A-Yes sir-it was,-a field or a pasture.

58 Q-Well I mean by a field,-an inclosure? A-Yes sir I have seen.

59 Q-Well now, do you not this stone fence you speak of that you found in Newcomb? A-Well I don't know. I know that it came off the total lot of parts belonging near,and perhaps the most of it from the road. I suppose they fenced up as much of it they could.

60 Q-Well now it was a large field or a small field that was? A-Well it was a pretty large field I could think,for it was about all of that south of the fence,[illegible] I don't know how far down south it extended,but it seemed to me to be a pretty large field that was there. You understand that,don't you?

61 Q-Yes sir,I think I do. A-Well go on and ask questions and I will answer them. I am getting old, and I am not going to stay here all day.

62 Q-What was that field cultivated in? A-Well it was across sometimes,and it was pasture sometimes.

63 Q-Do you remember the number of acres there was in that field? A-No sir.

64 Q-Well give us your best recollection as to the size of the field with reference to the number of acres there was in it? A-I don't know anything about the number of acres there was in it at all.

65 Q-Well did that field extend south of where the Missouri Pacific railroad is now,or did it,-was it north of where the Missouri Pacific railroad is now? A-Well I don't know but I think that

the present Missouri Pacific railroad is not far from the south side?,-from where the south side of that field was. That is my idea of it,but I would not be positive.

66 Q-Now where was the north side of that field? A-I think the road there made the line.

67 Q-You mean the road made the line? A-Yes sir.

68 Q-You mean the Westport road? A-Yes sir. I think that was the north line of that enclosure.

69 Q-Well now can you give us any idea as to where the east line of that field was?,-if there was a big rise to it can you give us any idea as to where the east line of it was? A-No sir I can't.

70 Q-Well can't you give us a ROUGH idea as to where the east line was? A-No sir,I cannot,and I have spoken of it thousands of times I might say,-well hundreds of times anyway,and yet I can't tell you.

71 Q-Well can you answer this question,-? A-I say I can't,will you hear it once,-

72 Q-I'll wait until you hear my question and SPEAK PLEASE-only you can answer it,-Was the east line of that field or enclosure,east of the west of the present enclosure where is the temple lot? A-The east line of the temple lot?

73 Q-Yes this is it,-was the east line of that enclosure you have been speaking of,east of the present enclosure known as the temple lot,or was it west of it? A-I don't know. I don't say whether it was east the west side of that lot or not present enclosure or not. Yes this is,and that is certainly I can't say. You know all that ground down there was called the temple lot once,and is yet called the temple lot by a good many. The whole piece of ground,-the whole enclosure there was always called the temple lot ever since I have been in this country,and a good deal before I came to it as well.

74 Q-Well can you tell us some how that line is there prior to the war? A-Well I don't know what I can. Well,-Pooles line was there when I came.

75 Q-What is that? A-There was a two house Poole lived down to the Lone Elm,and to make it I do not remember that that was.

76 Q-Do you know that he lived on that piece of ground that was fenced there? A-Well I can't say as to that I know he lived upon north of the railroad,and I believe that he did live on that farm.

77 Q-Was he inside the field or enclosure? A-Well the lot is I do not know which it was or not. I can't say as to that.

78 Q-Well do you know who was that? A-I can't say what it was.

79 Q-About how long ago was it? A-Well I reckon it was forty five or fifty years ago,-maybe more,may be less,but I think it was that long ago any way.

80 Q-That house name you say was "Poole"? A-Yes sir.

81 Q-Did you know any body else that lived in there? A-No sir I don't remember. If there was any one else lived there I have forgotten them now.

82 Q-Do you know to whom that property belonged at the time you speak of,-that is at the time it was fenced as you have stated? A-They said that Wooldson owned it,but I don't know that he did.

83 Q-Do you know who built that stone house there? A-Sam Wooldson had it done. I know that he got the rock over there where Chrisman's house was burned,right pretty near south of the church there

84 Q-Was the quarry-there where Christians house was, or was it south of where the house was? A-Well I don't know just where it was,but it was some where in that neighborhood.

85 Q-And the rock for the fence was taken from that quarry? A-Yes sir. Some where near there.

86 Q-Did you see them when they were building that fence? A-Yes sir I did that for they did not build it in a week,-they were quite a while building it,-I don't know how long.

87 Q-Did you see Dodson and Hazwell building the wall at that time? A-Yes sir. They had a contract. I saw them at work.

88 Q-Did you see Hazwell and Dodson in conversation with the [illegible]? A-[illegible].

89 Q-[illegible]? A-[illegible].

90 Q-[illegible] of that [illegible] was some [illegible]? A-[illegible].

91 Q-[illegible] or not [illegible] of that fence [illegible]? A-[illegible].

92 Q-[illegible]? A-[illegible].

93 Q-[illegible]? A-[illegible].

94 Q-[illegible]

95 Q-[illegible]? A-[illegible]

96 Q-[illegible]

97 Q-[illegible]? A-[illegible].

98 Q-[illegible]? A-[illegible].

99 Q-[illegible]? A-[illegible].

100 Q-[illegible] if you know? A-I [illegible]

101 Q-[illegible] A-[illegible].

102 Q-[illegible]

103 Q-[illegible]

104 Q-[illegible]

105 Q-[illegible]? A-[illegible].

106 Q-[illegible]? A-Yes sir, -that is where it was [illegible].

107 Q-[illegible] lot? A-[illegible] it, [illegible]?

108 Q-Yes sir, how does it [illegible] to the [illegible] lot? A-[illegible]

109 Q-Yes sir this lot that is [illegible]? A-[illegible] I [illegible] no. It lies right south of it. The road divides it.

110 Q-The road divides it? A-Yes sir. It was all called the [illegible] lot then and Woodson and Hazwell did some trading about it. I remember hearing that they had some trouble over it,and Woodson took his rock and left Hazwell [illegible].

111 Q-Was this before the war? A-Yes sir,I think so

I12 Q-How can you tell from what part or point, with refer
ence to the temple lot, the fence was moved south?
A-Can I tell?
I13 Q-Yes sir? A-No sir I don't know anything about that
only what a Mormon told me and he told me that he had
sold that part to John Maxwell.
I14 Q-Well I don't care about what any one told you. I
want simply what you know yourself without reference
to what any body told you? A-Well I know he told me
that and the fence was moved in——size of a wagon after
that.
I15 Q-Did you see them move the fence? A-If course
I saw them moving it, only I don't know who it
was that moved it. I saw them move it, but I could
not tell you any one was that was moving it, only
people,-I supposed Smith is there.
I16 Q-Was the fence located when it was moved, the
Mormons to the place after it was moved? A-I do
not understand what you mean?
I17 Q-Was it south or north, or east or west? A-I
told you it was moved south of where it was to be.
I18 Q-Was it moved? A-I could not say, for I did
not see. Common report the I recollect of.
I19 Q-Did any person tell you, you said a moment ago that
Mormons were there, and that they were strangers, and
I asked you if Mormons I put to jail were
Q-Committed to correct yourself? A-I said that I
was in the habit of telling it, but I don't
recollect in jail the man they were moving
it.
I20 Q-What the fence was moved from south? A-Yes sir.
the fence was close this road out here, and it was
moved off into south of where it had been.
What is to, stone in the fence was moved.
I21 Q-Do you know what the road was named that it was
moved to? A-No sir.
I22 Q-Well was the road located on the north or the south
side of the road after it was moved? A-There is a
part of it over here in the holler, and they have
built two houses of it in building, and I don't
know what property of the east, or whether it is all
west side.
I23 Q-Was you living on that road at any time when the
fence was moved during last year? A-Well yes I was around
there on night when they had a little cut loose one
evening.
I24 Q-Did that fence have anything to do with it? A-Well
the "Mormon strangers" had to jump that come to me,
after all was over.
I25 Q-Did any body protect himself if with the fence? A-No
sir.
I26 Q-Who was it? A-The killing.
I27 Q-You were there at the time? A-I was not at the
time. I went out there to see the fun but it was
all over before I got there. They had run off and
hid, and I don't know where they were in the
woods,-at any rate the fun was all over.
I28 Q-That is all?
Cross examination by P. K. Kelley.-
I29 Now you know exactly where that place, of course that
is the place of ours here, that they call the temple lot, I
don't you? A-Do I know where it is?
I30 Q-Yes sir,-do you know exactly where it is? A-Yes
sir.
I31 Q-You know just its exact location? A-Yes sir.
I32 Q-And have known it ever since I was have you not?
A-Yes sir.

I33 Q-How are you willing to say that you ever saw any body on those farms? A-Where?

I34 Q-Where that piece of ground is that is now fenced in, and which you say is now and has always been since you came here, called the "temple lot"? A-Where the temple is?

I35 Q-Where that piece of ground is fenced in? A-Well I don't understand the question,-what is it you asked me?

I36 Q-I mean can you be willing to say that you ever saw any on those farms, or raising a crop of any kind on that piece of ground on the "temple lot"? A-No, some stand called the "temple lot"? A-I did work on it, but I did not say that I saw any body plowing there.

I37 Q-I ask you if you ever saw any on that piece?

I38 Q-[illegible] A-No I didn't say I did.

I39 Q-You say you did not see any on that piece? A-No sir, I don't think I did.

I40 Q-[illegible] A-No sir, I don't know anything [illegible] it.

I41 Q-[illegible] was that? A-On the south side of the [illegible]

I42 Q-[illegible] A-[illegible]

I43 Q-As far as [illegible] A-Well I could not be positive [illegible] it was [illegible] positive it was [illegible]

I44 Q-What is that the fence that [illegible] A-[illegible] I know for certain that it [illegible] and I believe that it [illegible] up this way further than that, but I can't be positive [illegible]

I45 Q-You know there is a three cornered piece on the [illegible] A-[illegible]

I46 Q-[illegible] A-I don't know.

I47 Q-It would be on the street right west of where the temple is now,-Is that not the way the street is now? A-It went right west from that.

I48 Q-South south? A-Yes sir, that is what I thought.

I49 Q-I don't have the directions of the compass [illegible] A-Well you could have some one here to ask these questions if you don't know what you are doing.

I50 Q-Well I must confess that I expect that is pretty [illegible] Now what is your recollection about that? A-About what?

I51 Q-Is it your best recollection that that is where the fence stopped there,-that is that it stopped on the west side of that [illegible] triangular piece of ground there at the west end of the temple lot is at present fenced? A-No sir I don't recollect that it stopped there. I think it came on further.

I52 Q-Well there did it stop? A-Well it must have come pretty

near the end of where that Mormon temple is out here, as they call it. I think it must have come up pretty near to that.

I53 Q-Well will you swear that the fence did come up to there? A-No sir I could not do that.

I54 Q-You could not swear that it came up that far? A-No-sir,for I don't remember just where it did come, as it has been so long ago,but I remember that there was a fence there.

I55 Q-That ground has always been known as the"temple lot"

ever since you have been in the country has itnot? A,Yes sir,and I heard of it before I came here.

I56 Q-It has never been known by any other name since you have been here? A-That is the name it had gone by,-as the temple lot or temple ground.

I57 Q-Did you ever go to-church there? A-No sir,not that I remember.

I58 Q-Did they ever hold any meetings there that you know of,-out of doors I mean? A-Well I heard that they had meetings there,but I don't know for I never went to any of them myself.

I59 Q-Well when you first came here in 1833 was the ground where this temple lot is,-the ground that is and always has been known as the "temple lot",-was that timbered land or prairie land,or both? A-Well it had most of it been timbered land I think,but at that time the timber was mostly cut off it. Most of it was any way.

I60 Q-Most of the timber had been cut off it? A-Yes sir

I61 Q-That was when you first came here? A-Yes sir.

I62 Q-Where was that that the timber was cut off it? A-Well along this street out here,-the "Westport road as it was called,the timber was preety well cut off it when I came here.

I63 Q-How far back from the road was the timber cut off it if you know? A-Well I don't know. I can't say. There was scattering trees on it of course,but I can't say how far back the timber had been cut off it.

I64 Q-Now in reference to this fence,-is it not a fact that there was just a fence run around a part of this land for the purpose of pasturage,and that it was never farmed in the sense that we mean when we say a piece of land is farmed? A-Well I can't say. I know what farming is,but I don't know whether that was farmed or not. I said that before,but I know there was grass on it,and I think at some time there was some wheat grown there,but as to that I would not be positive. I remember though that there was grass there,for I recollect seeing them cutting grass there.

I65 Q-And they did not turn their cattle in there to graze? A-Yes sir,of course they did.I don't know that I ever remember seeing cattle pasturing in-there but it is reasonable to suppose that if they had it enclosed that they would put their cattle in it and not let the pasture go to waste.

I66 Q-They did turn cattle in there to graze? A-Yes sir I suppose so for if you had a piece of ~~xxxxxx~~ land that was fenced you would ~~xxx~~ pasture your stock on it or farm it if you saw it was fit for farming.

I67 Q-Who was that man,- what was his name,-I mean the man that told you he had sold it to Maxwell? A-Well I don't recollect his name. I can't remember those things for it has been so long ago you know,- too long ago to remember the named of men who told me a thing like that in which I was not particulaly interested. I remember talking to him three hours one day,and I recollect that he

talked to me the day about three hours about it. I remember too that he told me that he had sold it to Maxwell, and he said he was a Mormon, and he lived at Salt Lake City.

I68 Q-Where did he live? A-He told me that he lived in Salt Lake, but I don't know anything about that only what he told me.

I69 Q-Where did you see him? A-I saw him out here not far from Washington Park down here. He came there and stayed all night with me and that was how I come to talk with him as I did.

I70 Q-When was that? A-That was a long time ago.

I71 Q-Well about when was it? A-It was a long, long time ago,-not far from forty five years ago I should think yes I reckon it was as much as forty five years ago.

I72 Q-Was it in 1846 or '47? A-Yes sir, I reckon it was some where along about that time.

I73 Q-And you do not recollect what his name was? A-No sir, I asked him his name but I don't remember what it was now. Of course he told me but I have forgotten it.

I74 Q-He said that he lived in Salt Lake? A-Yes sir, that is what he told me, and that is all that I know about it.

I75 Q-Would you recollect his name if you were to hear it again? A-Well I don't know as I would.

I76 Q-That is all? A-I don't recollect a Mormons name for my memory is not as good as it used to be, but I recollect that there was one shot old Governor Boggs through a window here in Independence.

I77 Q-How do you know it was a Mormon shot him? A-Well it was a Mormon I guess. I reckon there is no doubt about that.

I78 Q-Well don't you think you know it because it was said it was a Mormon shot him? A-I don't know how I know it.

I79 Q-And don't you know that Col Doniphan said it was not a Mormon that shot him? A-Well it don't matter what he said for Col Doniphan didn't know everything

I80

Witness fees amounting to $1,00 and mileage 6 miles 10 cents per mile, amounting in all to $1,60 paid by defendants.

It being impossible to conclude the taking of the depositions herein on this day, the further taking of same, is continued until Thursday the 7th day of July 1892 at the hour of 10 o'clock A.M.,

Now on this 7th day of July 1892 at the hour of 10 o'clock A.M. come the parties herein as aforesaid, and the further taking of the depositions herein is continued, pursuant to adjournment.

By Mr Southern,-"It is admitted I believe that the King James translation of the inspired scriptures, and the translation of the same made by Joseph Smith, are introduced in evidence".

By Mr Kelley,-"It is admitted that parts of them are,- not all of them".

By Mr Southern,-"I think I can show you from Joseph Smith's testimony that they were put in bodily."

By Mr Kelley,-"No we claim that they were not offered in evidence,-they were simply offered at that time for the purpose of identification, and that was all. We offered it for that purpose and nothing else so that they could be used as evidence or any part of them after that time if we saw fit to introduce them or any part of them. At the time we simply desired the witness to identify the books referred to, and that was all."

By Mr Southern,-"Defendants now offer in evidence from the King James translation of the Holy Scriptures marked exhibit "C", and from exhibit "D", entitled the "Holy Scriptures, translated and corrected by the Spirit of Revelation, by Joseph Smith, Jr the Seer", published by the church of Josus Christ of Latter Day Saints,

date of publication 1867,as follows,-from-King James translation marked exhibit "C",Exodus 32 chapter,35th verse, the words"and the Lord plagued the people because they made the calf which Aaron made". And also from exhibit"D" from the 32 chapter of Exodus,the 35th verse,the words"and the Lord plagued the people because they worshipped the cald which Aaron made."

By Mr Kelley,-I move to exclude the testimony offered because it is incompetent,irrelevant and immeterial,and I make the further objection that there is no witness on the stand,we whom questions are propounded nor to read the testimony sought to be introduced".

By Mr Southern,-"All right. If you are willing to stand on that objection I am. I also offer from exhibit "C", Genesis 9th chapter,5th verse as follows,-"and surely your blood of your lives will I require at the hand of ever beast will I require it,and at the hand of man;at the hand of every mans brother will I require the life of man". Now I will read from exhibit "D" I will read the same chapter and verse. I will ask you to read it Mr Kelley,-"

By Mr Kelley,-"And the Lord spake unto Noah,and he blessed him. And Noah smelled a sweet savor,and he said in his heart,"

By Mr Southern",-"That is not right. They don't correspond,-that can't be right."

By Mr E.L. Kelley,-"I think I can find what you want Colonel if you will let me have the book I will see if I can't find what you want. I think you will find it in the IIth and 12th verse. of the same chapter"

By Mr Southern,-"Well read the IIth and 12th of that chapter".

By M E.L. Kelley,-"And ~~xxxxx~~ surely blood shall not be shed,only for meat,to save your lives;and the blood of every beast shall I require at your hand;

And whose sh eddeth man blood,by mans shall his blood be shed;for man shall not shed the blood of man". That answers to it I think."

By P.P. Kelley,-"Note the same objection and motion to exclude Mr Reporter".

By Mr Southern,-"Swear Mr E.L. Kelley Mr Reporter,-

E.L. Kelley of lawful age being produced,sworn and examined on the part of the defendants,testified as follows,-

Direct examination by Mr Southern,-

I Q-Mr Kelley do you recognize the King James translation of the bible which I now hand you,and which is marked exhibit "C",-do you recognize that in the reorganized church of Jesus Christ of Latter Day Saints of ~~xxxxxxxx~~ are the bishop as a work of authority ~~x~~ in your church? A-Yes sir.

2 Q-Is it an authority on questions of doctrine in the church which you represent,or to which you belong? A-It is so regarded. It is so held.

3 Q-Do you recognize the book marked exhibit "D", entitled the"Holy Scriptures,translated and corrected by the Spirit of Revelation-by Joseph Smith,jr.,the the Seer,published by the church of Jesus Christ of Latter Day Saints",which I now hand you,-do you recognize that as a work of authority on question of doctrine by the church to which you belong? A-I recognize it as a work that is accepted for what it is worth,and it is usdd by our people for what it purports to be.

4 Is it accepted as a book of doctrine in your church? A-Yes sir,it is recognized as a book of authority, but it has never been accepted by our church to take the place of that is known as the

King James translation of the Holy Scriptures. It has never been accepted in the sense of taking the place of the King James translation by any act of the church, but it is considered by our people to be more fully translated on many points than is the King James translation, as was stated, and I think correctly, by President Smith and W.W. Blair while ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ ~~correctly, by President Smith and W.W. Blair while~~ on the witness stand, but it has not been made a standard in the church in preference to the King James translation, we use it believing it to be a better translation in many regards, and possibly not in all. I will state that we accept it as an authority in the church simply for what it is worth, and nothing more, -simply for what it shows itself on its face to be.

5 Q-Has it not been endorsed by your church in Conferences assembled as one of the books of authority for doctrine of the church?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reasons that it is incompetent, irrelevant and immaterial, and not the best evidence, the record of the conference endorsing it, if any, being the best evidence.

A-I could not give you the words of the endorsement of what are termed the standard books of authority in the church. I don't know whether the read "the bible, the book of Mormon and the Doctrine and Covenants", or "the Holy Scriptures, book of Mormon the book of Doctrine and covenants", in all instances. I can't say how that is Colonel. I know there are some instances where it reads "the bible the book of Mormon and the book of Doctrine and Covenants", but whether there is an instance where it reads "the holy Scriptures", I could not say from memory.

6 Q-Is it on a of the books of doctrine in the church,- that is the question I want you to answer? A-Well we hold that it is one of the translations of the bible and as such we hold it to be a book of doctrine. We recognize all the translations of the bible, and in our acceptance of the holy scriptures we do not designate any special translation. We hold it to be one of the translation of the bible just as the Baptists hold the "Bible Union" translation, as the translation that they recognize. How we could recognize the same translation. There is the King James translation and several others and we recognize all of them when it comes down to that for our members are not tied down to any particular translation. That is the ground I understand we take, and so do other societies

7 Q-Do you or do you not hold it to be a translation of the bible by the spirit of revelation,-the holy spirit, as is claimed in the title page which I have read? A-Yes sir, we hold it as set forth in the-title page. It don't however claim to be a correction of,-

8 Q-Of all the errors? A-No sir, not wholly, but so far as it is corrected it does. There are some certain books that are not translated at all Colonel in the King James translation as it specifies some place in the record I believe, but I am not able now to turn directly to it.

9 Q-Do you recognize what I am now going to read from exhibit "E", entitled "The Reorganized Church of Jesus Christ of Latter Day Saints, in succession from 1830 to the present", as follows,-"Resolution by General Conference of the church, September 18th 1878,-

Resolved, that this body representing the Reorganized Church of Jesus Christ of Latter Day Saints, recognize the Holy Scriptures, the Book of Mormon, the revelations of God contained in the book of doctrine and Covenants, and all other revelations which have been ~~xx~~ or shall be revealed through God's appointed

prophet,which have been or may be hereafter accepted by the church,as the standard of authority in all matters of church government and doctrine,and the final standard of reference on appeal in all controversies arising,or which may arise in the church of Christ". That is taken so it reads here from the "Saints Herald,volume 25,pages 295 and 296". Now that is found on page 15 of the pamphlet I have described. What do you-say to that? A-Well that is all right. There is nothing wrong with that.

10 Q-Well do you recognize that as a resolution passed by the general conference of the church,as it purports to have been? A-I recognize the import of it,but whether it is a correct copy or not I could not say,for the reason that I did not have anything to do with it at all,-

that is I mean to say I did not have anything to do with the compiling of it or the printing of the proof afterwards,and I found out there was some errors in that little pamphlet after it was printed,but I don't know there was any error in it in that respect,-that is in so far as that which you have read is concerned,but there was in other respects.

11 Q-You say you found out afterwards,-that is after it was printed and published that there were some errors in it? A-Yes sir,not in that but in other respects. There was some errors in it,but I cannot testify as to whether that is a correct quotation or not. I would suggest however,that if you have the records in your possession from which that was taken, you had better examine them and see if that is correctly quoted. As far as my knowledge goes I cannot say whether it is or not,but I assume that it is a correct quotation.

12 Q-Well as I have not the record in my possession I am obliged to you for the suggestion,and I would be glad if you would turn to the records and show me the original record of that resolution? A-Well the records were here,but as they were not used,-I guess they have been taken away,-at any rate I think they are not here now.I would be very glad to accomodate your desire Colonel if I could,but I fear I can't do so.

13 Q-What do you regard as the meaning of the phrase or expression "Holy Scriptures"?
Counsel for the plaintiff objects to the question asked the witness on the ground that it calls for an opinion of the witness.

14 Q-What do you regard as the meaning of the phrase"Holy Scriptures as used in the resolution which I have just read to you? Does it mean the Smith translation,or does it mean the King James translation of the Holy Scriptures?
Counsel for the plaintiff objects to the question asked the witness for the reason above set forth.
A-Well assuming that that is the proper wording of the resolution I would assume that it meant or referred to the translation by Joseph Smith,because that is the title of it.

15 Q-What do you mean by that? A-I mean that the title to that translation is that,-it is called the"Holy Scriptures".

16 Q-Have you,or are you familiar with the contents of this book marked exhibit "B",which is the translation of the Holy Scriptures by Joseph Smith,and with the contents of exhibit "C",entitled the King James translation of the bible? A-Yes sir,pretty well acquainted with them both.

17 Q-Are you sufficiently well enough acquainted with them to state whether or not they teach conflicting doctrine? A-I think I am.

18 Q-Well are you? A-I think I am so, I am to my own satisfaction at least,but whether my knowledge would satisfy- other people,whilst it is satisfactory to myself,I cannot say. In answer to your question I will say that I am to my own satisfaction at XXXXX any rate.

19 Q-You are acquainted with them to your own satisfaction?xx Yes A-Yes sir,but I do not say that I am to the satisfaction of others.

20 Q-Well are there any considerable differences in the texts of the two books?

Counsel for the plaintiff objects to the question asked the witness on the ground that it calls for an opinion of the witness,and does not call for the best evidence,-the book referred to being the best evidence of the fact sought to be proven.

A-I think there is some considerable difference in certain things,but it is more in minor things,after the character of the corresponding texts that were introduced this morning. For instance it is stated that the Lord plagued the people because they made the calf that Aaron made,whilst in the other translation,it reads that the Xxxx Lord plagued the people because they worshipped the calf that xAaron made. That is an illustration that you can remember,and there is manifestly an error in the King James translation as it is termed. There is no material difference in these two books or in the different readings. I deny absolutely that there is any difference that ever in the teaching of the doctrine taught in these two books,but there are minor differences that do not effect the question of doctrine at all,as in the example I have just given you. There is simply differences in the translation in the same manner as they are differences x between the King James translation and other translations of the bible for I will state further Colonel in this same connection,that in reading what is termed the Holy Scriptures you will get certain ideas that you do not xxx gather readily from reading the King James translation,-in the latter they are made that clouded,and in the former they are put in such a way as to be more readily grasped and understood,but after comparison you will find that the same thought is held out in both,-in the King James translation as well as in the other. There is no claim or pretence of a claim by the society that the two x teach different or conflicting doctrines that I have ever heard anything of that was ever made by the elders or leaders in the church,and in all my ministerial work I have heard the King James quoted,and I ryself have carried it for the last thirty years,and have used it during the whole of that time when I had occasion to use it. I have used it as a minister since 1871,or twenty one years.

By Mr Southern,-"I now offer in evidence both of the exhibits referred to-marked exhibits "C", and "D",-not for the purpose however of having them copied in the record".

By Mr P.P. Kelley,-"They are objected to for the reason that they are immaterial and irrelevant and incompetent,and I move the court to exclude all the testimony of the witness for the reason that it is simply calling x for his opinion,and not for the facts".

By Mr Southern,-" I am not prepared to go on with the line of examination I started out to make,for the reason that this book thatx I hold in my hand which purports to be a book of reference,is not as accurate as it should be,so I will defer that to another time".

By Mr Kelley,-"(speaking in reference to an agreement sought to be

made between the parties hereto)"I will agree that this entry may be made of record",-it is agreed that all original deeds offered in evidence by either party,may be offered and introduced without the necessity of proving formally the original signature of the grantors named in the deed".

By Mr Southern,-"And that the signatures of such grantors be admitted".

By Mr Kelly,-"[illegible] I prove the signature [illegible] all right, and if it is admitted [illegible] "I don't think that would necessarily follow".

By Mr Southern,-"Then you don't admit the signatures. If I prove the signature it is all right,and if it is admitted it is all right too.

By Mr Kelly,-"Well I think if you want us to admit as much as that we ought to be better strike x the whole thing out."

By Mr Southern,-"But it this day,-that the signature of the original grantor is admitted to all original deeds is admitted unless it officially objected to".

By Mr Kelly,-"Yes sir that is all right,-that will do,-either party has the right to object to the signature of either party,-or any one".

By Mr Southern,-"That is satisfactory".

It being impossible to complete the taking of the depositions on this day,by agreement of the parties hereto the further taking of the same was continued until Saturday the 8th day of July 1922 at the hour of ten o'clock A.M. Now on this 8th day of July 1922 at the hour of ten o'clock A.M. come the parties hereto,as aforesaid,and the further taking of depositions here in was continued, pursuant to adjournment,-

H.G. Henley,of lawful age,being produced,sworn and examined on the part of the defendants,testified as follows,-

Direct examination by Mr Southern,-

1 Q-State your name to the reporter? A-H.G. Henley.

2 Q-Mr Henley look at the paper which I now hand you and state to the Notary what it is? A-Yes sir.

3 Q- Well what is it? A-This is the abstract.-

4 Q-Well just a moment Mr Henley you,or rather I am just a little too fast. I want to prove a thing,-or two before I get to that. Mr Henley where did you hold,if any,in Jackson County,Missouri? A-I am deputy circuit clerk of Jackson County Missouri.

5 Q-You are the deputy here at Independence are you not? A- Yes sir. I am the deputy in charge of the office here at Independence.

6 Q-And as such are you in charge of any of the records of the clerks office? A-Yes sir I have charge of the office at Independence. I have charge of this office here.

7 Q-You have charge of the office here at Independence? A-Yes sir.

8 Q-How long have you been in charge of the office here at Independence,Mr Henley? A-I have been in charge of the office here at Independence since 1917.

9 Q-Well now look at the paper which I hand you,and if you can do so you may state to the reporter what it is? A-It is the transcript of the proceedings of the case of Samuel H. Wilson,plaintiff,against Robert J. Smart,administrator of the estate of John Maxwell, Maxwell,deceased and others.

10 Q-Does it state the others? A-Yes sir.

11 Q-Well read the names of all the parties? A-John Maxwell,deceased,Robert J. Smart,as administrator of the estate of John Maxwell

deceased, Matilda Maxwell, William A. Maxwell, Theodore H. Maxwell, Ambrose A. Maxwell, Ann Mary Maxwell, John A. Maxwell, and Robert G. Maxwell.

I2 Q-That is the transcript of that case is it? A-Yes sir.

I4 Q-With what addition if any? A-Well with the certificate of the clerk,-the certificate of the clerk "H. H. Holand", is attached, and the certificate of the judge,-J. H. Slover, as to his signature..

I5 Q-I now offer that transcript in evidence, and ask that it be marked "Exhibit E.S."

Counsel for the plaintiff object to the transcript offered in evidence for the reason that it is incompetent, irrelevant and immaterial, and on the further ground the transcript is objected to on the ground that the court authorising the proceedings of which the paper offered as evidence purports to be a transcript had no jurisdiction, of the subject matter of the action or of the parties, and the paper speaks for itself as to what it is".

By Mr Southern.-

I6 Q-Now Mr Hanley I have you another paper, and ask you to state to the reporter what it is, if you know what it is

Counsel for the plaintiff objects to the question asked the witness on the ground that the paper offered the witness is the best evidence and speaks for itself as to what it is".

A-Not that is the transcript of the proceedings in the case of James Cox, James H. Yatman, Samuel Stacker and John Bell, plaintiff against James Poole.

I7 Q-With the attached certificates? A-Yes sir. With the certificates of Holand as Clerk and J.H. Slover as Judge.

I8 Q-These are both transcripts of the records in your office? A-Yes sir.

I9 Q-In the office of the clerk of the Circuit Court? A-Yes sir.

Counsel for the plaintiff objects to the last two questions asked the witness on the ground that they are leading and immaterial.

20 Q-I now offer this last transcript in evidence and ask that it be marked exhibit "C. S".

Counsel for the plaintiff objects on the ground xxxx stated in the objection to exhibit "E"S".

Witness fees amounting to $1.25 paid by defendants.

P.H. Grinter, of lawful age, being produced, sworn and examined on the part of the defendants, testifies as follows,

Direct examination by Mr Southern.-

I Q-What is your full name. A-P. H. Grinter"

2 Q-Mr Grinter you may state what your business is? A-I am a civil engineer and land surveyor.

3 Q-Has you ever transact any business here in Independence? A-I have.

4 Q-As a land surveyor? A-Yes sir.

5 Q-And as a civil engineer? A-Yes sir.

6 Q-In what capacity have you acted? A-I have been city engineer here for several years.

7 Q-As such were you acquainted with, or are you acquainted with the boundaries of the city of Independence, and the boundaries of its additions? A-I am.

8 Q-Will you please look at the plat here before you, xxxxxx xxx marked exhibit "A.S.O", and state what itis

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent and immaterial.

9 Q-You may answer the question? A-This is a plat purporting to pertaine x certain lands within the city of Independence.

10 Q-Is there anything in that plat purporting to represent sixty three acres of land purported to be conveyed by one Kimmey to one Partridge? A-By which

11 Q-By one James H. Kimmey to one Edward Partridge?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and leading.

12 Q-You may go on and answer the question? A-Please let me see the abstract.

13 Q-Have it in, examine that if you desire and then have your answer? A-What is the question?

14 Q-I asked you if there was anything in that plat that purported to represent sixty three acres of land that was conveyed by one James H. Kimmey to one Edward Partridge at any time? A-There is.

15 Q-Please indicate it to the reporter? A-Here is the line marked on the plat.

16 Q-That is it, sir? A-Yes sir.

17 Q-I'll ask it happily definite, though. Please describe the lines of the plat by which the land is compised? A-This another piece here represents the lines marked on the map of the property we are to.

18 Q-The land on the plat bounded by the lines marked in blue red? A-Yes sir.

19 Q-Is there any boundary designated on that plat commencing on the western south line of the south half xxxx east quarter section or section ten township north east corner of xxxxxxxxx x said section, thence north sixteen poles and ten links, thence northerly course seventeen poles, thence north twenty one degrees east fourteen poles, thence north fifteen degrees east twenty poles, thence north xxxxxxx forty two degrees east thirty four poles, thence north fifty five degrees east thirty poles, thence north sixty four degrees, east forty poles, thence north seventy degrees east seventeen poles and fifteen links? A-Yes sir I find the line represented as you have described.

20 Q-Well what ground is there?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and immaterial, and leading.

-I told you that that is the line laid down xxxx on this plat, bounded by the blue lines in the direction described.

21 Q-I want to ask to my description there these words "Beginning one hundred and twenty poles and seventy links to the place of beginning, containing sixty three acres and forty three x one hundred and sixtieths of an acre"? A-Yes sir that is correct. That is the line described.

22 Q-Well that is the land bounded by what lines on this map? A-It is the land bounded by the blue lines as represented on this map.

23 Q-Do you know where St. John and Dawson's addition to this city, located? A-I do.

24 Q-St John and Dawson's addition to the city of Independence? A-Yes sir. I know its location.
25 Q-Is there anything on this ~~xxx~~ map corresponding to ~~xx~~ it? A-There is. It is indicated there.
Counsel for the plaintiff objects to the question asked the witness and the manner of his examination for the reason that it is leading.
26 Q-What,if anything,is there on this map that corresponds with St John and Dawson's addition to the city of Independence? A-The part of this map that is colored yellow represents St John and Dawson's addition to the city of Independence.
27 Q-Is it within the sixty three acres that you have heretofore described? A-Yes sir.
Counsel for the plaintiff objects to the questions for the reasons above set forth.
A-It is.
28 Q-Do you find any other additions inside of this sixty three acre tract bounded by the blue lines? A-I do.
29 Q-If so,what are they?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and is leading.
30 Q-What is it,if any? A-Woodson and Wakefield's addition.
31 Q-Well what others do you find,if any?
Counsel for the plaintiff objects to the question asked the witness for the reasons and on the grounds above set forth.
32 Q-You may answer the question? A-I find with St John ~~&~~ & Dawson's addition"Prospect Place",-St Johns ~~xxxxxx's~~ addition and Forgey and Servison's addition.
33 Q-Well do you find any other land not in the additions? A-I do.
Counsel for the plaintiff objects to the question for the reasons above stated.
34 Q-What land do you find?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A-I find a certain tract of land to the west of St John & Dawson's addition,which I suppose is owned by William Chrisman.
Counsel for the plaintiff moves the Court to strike from the record the answer of the witness on the ground that it is incompetent.
35 Q-Is there any other property described in the addition,-not in the addition but any other property other than that that you have mentioned described on that plat as being within the blue lines which you say include the sixty three acres we have referred to?
Counsel for the plaintiff objects to the question ~~xxxxx~~ ~~xxxxxxxxxx~~ on the ground that it is incompetent,irrelevant and immaterial, and leading.
A-I do.
36 Q-Well what do you find? A-A certain tract marked depot grounds connected with the Missouri Pacific Railway.
37 Q-Is there any other than that you have designated?
Counsel for the plaintiff objects to the question for the reasons above set forth.
~~X~~ A-I think not. I believe I have mentioned all the lands that are designated in that tract.
38 Q-What is the sixty three acre tract?
Counsel for the plaintiff object to the question as incompetent,andimmaterial,and leading.

A-Yes sir.
39 Q-Take the witness.
Cross examination by P. . Kelley.-
40 Q-What did you say your name was? A-Grinter,-P.H. Grinter.
41 Q-What did you say your occupation was? A-Civil engineer and land surveyor.
42 Q-Did you make that plat Mr Grinter? A-What is that
43 Q-Did you make the plat from which you have been testifying? A-In part I made it.
44 Q-What is that? A-I made the- plat in part.
45 Q-Is your testimony confined to the-part of the plat which you made yourself? A-It is.
46 Q-Was that made from actual measurements taken on the ground, by you personally? A-Yes sir.
47 Q-It was made from actual measurements taken by you? A-It was.
48 Q-Well when do you say you made the measurements? A-Those measurements have been made at various times within the last few years.
49 Q-Well within how many years? A-I will say within the last three years.
50 Q-That is all. I now move-to strike out all of the testimony this witness from the record as immaterial, irrelevant and incompetent,and move the court to tax the costs of same to the defendant.
By Mr Southern.-
"Defendants offer in evidence a certified copy of a deed from Jonas Edouard Sawyer & Partridge,which I wish to be marked exhibit "A.S.",and it is admitted that the original is not in with in possession or control or reach of the defendants."
"Defendant now offers in evidence a certified copy of a deed from Lydia Partridge and Elizabeth Partridge, etc,heirs of Sawyer Partridge,to James Poole-which is marked exhibit "B.S"., purporting, to convey the same land as was conveyed in the deed last offered in evidence,and is admitted by the plaintiff that the original is not within the reach of the defendants,or any of them.
By Mr Treber.-"Now then that is objected to ~~because the~~ the plaintiff because it is incompetent and immaterial, and because the grantors had no interest in the land described in the deed at the time of its execution".
By Mr Southern.-
Defendant now offers in evidence an original deed from James Poole to John Maxwell,marked exhibit ~~XXXX~~ "B.S". with certificate as to acknowledgement,and endorsement of date of record,and it is admitted that the signature thereto is the signature of James Poole the grantor."
By Mr Treber.-
"The same objection is made to this deed,as was made to the last deed offered in evidence,-except as to the acknowledgement".
By Mr Southern.-
"Defendant now offers in evidence a deed made by James Poole by Benjamin F. Thompson,Sheriff of Jackson County, Missouri, to John Maxwell marked exhibit "B.S.A", with the acknowledgment, and certificate, and it is admitted;and it is further admitted that the original is not in the possession or control or within the reach of the defendants or any of them."

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By Mr Treber,-

"The same objection is made to this deed as was made to the last deed offered in evidence, and the further objection is made that the court rendering the judgments under which the sheriff made the sale, had no jurisdiction over the defendants, or the land described in the deed."

By Mr Southern,-

"I now offer in evidence the deed of Samuel I. Edwards to Samuel E. Cooksey, with accompanying acknowledgments and certificates, and it is admitted that the original is not within the control, possession or custody of the defendants, or any of them, and it is admitted that the deed was signed and executed as it purports to have been only, and ask that it be marked exhibit "M.N."."

By Mr Treber,-

"It is objected to for the same reason that the last deed offered in evidence was objected to, because as to the jurisdiction of the court rendering judgment,-and it is objected to for the further reason that if the acknowledgment in the deed is void and unauthorized,-and the further objection is made because the acknowledgments is not made in conformity with the statute."

By Mr Southern,-

"Defendants now offer in evidence a deed of Robert G. Scott, administrator of the state of John Maxwell, deceased; Matilda Maxwell; Sam C. Maxwell; Thomas B. Maxwell; William A. Maxwell; Theodore H. Maxwell; Josephine A. Maxwell and Robert H. Maxwell by Joel H. Hayden, sheriff of Jackson County, Missouri; to J. [illegible] and acknowledgments signed by [illegible] by said Hayden as in support to have been, and that the original is not within the possession, control or custody of the defendants or any of them, and I ask that it be marked exhibit "O.P."."

By Mr Treber,-

"That is also objected to for the reason that the court rendering the judgment under which the execution was issued and the sale made, had no jurisdiction over the defendants, or any of them, nor over the property sold".

By Mr Southern,-

"Now I offer in evidence the original deed of John Maxwell, by Joel H. Hayden the Sheriff of Jackson County, Missouri, to John Montgomery, marked exhibit "L.M.", with accompanying certificates and acknowledgments, and it is admitted that the deed was signed and executed as it purports to have been."

By Mr Treber,-

"That is objected to because it is incompetent, and because the court rendering the judgment under which the execution and levies on the land described therein was sold, had no jurisdiction over the person, or the property described in the deed, and the judgment was void".

By Mr Southern,-

"I now offer in evidence an original deed of John Montgomery to John H. Hopkins, marked exhibit "J.K.", with accompanying certificates and acknowledgments, of record, and it is admitted that the deed was signed and executed as it purports to have been, and also it is admitted that it was [illegible] as it purports to have been [illegible]".

By Mr Treber,-

"We have no objection to that except that it is incompetent, irrelevant and immaterial."

By Mr Southern,-

"Now I offer an original deed from John [illegible]. Hayden, late Sheriff of Jackson County, Missouri, to the heirs of John Kelley, deceased, with the acknowledgement thereto, and it is admitted that the same was executed and signed as it purports, so marked,-"

By P. T. Kelley,-

"We object to that on the ground that it is incompetent, and irrelevant, and for the x further reason that the court authorizing the sale of the property by the sheriff did not have jurisdiction xxxx of the subject matter nor of the parties, and that the deed does not contain the recitals required by the law."

By Mr. Southern,-

"Defendant now offers in evidence deed of John Kelley, estate by George [illegible]. Buchanan, administrator to J. [illegible]. Hedrick marked exhibit "[illegible]. S.", with the accompanying acknowledgement, and it is admitted that it is signed and executed as it purports to have been".

By P. T. Kelley,-

"The same objection is made as was made to the last deed offered in evidence, and I make the further objection that it is not acknowledged as required by law."

By Mr. Southern,-

"I now offer on behalf of defendants copy of deed of Robert [illegible]. S[illegible], administrator of the estate of John Powell deceased, of the [illegible] John [illegible]. [illegible], to Thomas H. [illegible] with certificates [illegible] thereto, and it is admitted that the original is not in possession or under the control of the defendants, and that it was signed and executed as it purports to have been, and that it be marked exhibit "[illegible]".

By Mr. Kelley,-

"That is objected to for the reason that it is incompetent, irrelevant and immaterial, and for the reason that the court authorizing the sale of the property xx had no jurisdiction over the subject matter, or the parties, and the party executing the deed had no authority as a matter of law to execute it, or as a matter of fact had no authority to execute it. And it is objected to for the reason that it does not describe the property in controversy in this suit, nor any part of it".

By Mr. Southern,-

"Defendants now offer in evidence copy of a deed from Thomas H. [illegible] to Jacob Tindall with accompanying certificate of acknowledgement, and it is admitted that the same was signed and executed as it purports to have been, marked exhibit "[illegible]. S.", it is further admitted that the original is not in the possession or under the control of the defendants, nor any of them."

By P. T. Kelley,-

"That is objected to for the reason that it is incompetent, irrelevant and immaterial, and for the further reason on the ground that it is not acknowledged according to law."

By Mr. Southern,-

"On behalf of the defendants I now offer an xxxxxxx original deed from Jacob Tindall to John L. Hedrick, with the accompanying acknowledgements and certificates, and it is admitted that it was signed and executed and recorded as it purports to have been, marked "exhibit 6, S.".

By Mr. Kelley,-

"That is objected to for the reason that it is incompetent, and immaterial, and for the reason that it does not appear that the grantor had any interest in the property sought to be conveyed, and described in the conveyance.

~~the conveyance~~".

By Mr Southern".

"On behalf of the defendants I now offer in evidence an original deed from Joseph C. Irwin and wife to William Eaton, with acknowledgement and certificates of record, and it is admitted that the said deed was signed and executed as it purports to have been signed and executed, and ask that it be marked exhibit "P.S.",

By P.P. Kelley.-

"That is also objected to because it is irrelevant, incompetent, and immaterial, and for the further reason that the grantors, had no interest in the property described in the conveyance."

By Mr Southern.-

"We now offer a copy of deed from S.F. Hodgson and wife to Adolphus Kuon and others with accompanying certificates and acknowledgements, and it is admitted that the same was signed and executed as it purports to have been, and that the original the deed is not in the possession of the defendants, by any of them, nor is it under their control. and ask that it be marked exhibit "S.S.",

By P.P. Kelley.-

"The same objection is made to this deed as was made to the last deed offered in evidence, with the addition of the further objection that the acknowledgement is not in due form of law, nor as required by the laws of the State of Missouri."

By Mr Southern.-

"Now I offer the original deed from Maria McDonald and Susan Tilson to William Eaton, with the accompanying acknowledgements, and it is admitted that the said deed was signed and executed and recorded as it purports to have been, and ask that it be marked as exhibit "R.S.".

By P.P. Kelley.-

"That is objected to for the reason that it is immaterial irrelevant, and incompetent, and for the further reason that it is not acknowledged as required by law, and that the grantors named in conveyance, had no interest in the property described in said conveyance."

By Mr Southern.-

"I now offer an original deed from ~~xxx~~ William Eaton to Granville Merrick trustee, with accompanying acknowledgement and certificate of record, and it is admitted that the same was signed and executed and recorded, as it purports to have been, and ask that it be marked as exhibit "S.S".

By P.P. Kelley.-

"The same objection is made to this deed as was made to the last deed offered in evidence, except as to its acknowledgement; and the further objection is made that the grantee named in the deed was not the lawful trustee for the church at the time the deed was executed, nor was he the lawful trustee for the church at any time subsequent to the date of its execution."

By Mr Southern.-

"I now offer in evidence on behalf of the defendants the original deed from J.J. Hedrick and wife to Granville Hedrick, President of the Church of Christ, and trustee ~~xxx~~ in trust for the ~~xxxxxx~~ said church of Christ, ~~of~~ Christ,-now mind after the words "church of Christ" as it appears in here, are the words in parenthesis "Latter Day Saints", and ask that the same be marked as exhibit "T.S.", and it is admitted that it was signed and executed and recorded as it purports to have been."

By P.P. Kelley.-

"The same objection is made to that deed, as was made to the other

dded last offered in evidence."

By Mr. Southern,-

"I now offer in evidence on behalf of the defendants a copy of the a deed from Margaret J. Wooson and others to Hugh Duty, President, and it is admitted that the deed was signed, executed, and recorded as it purports to have been, and the original is not within the possession nor under the control of the defendants or any of them, and for this it is marked as exhibit "U.S.".

By Mr. Kelley,-

"Subject to the same motions heretofore made, it is incompetent, immaterial and irrelevant, and does not describe the land in controversy in this case, and it is objected to on the ground that the deed purports to convey land in Tennessee and not in the property in question, and that the grantor named in said deed at the time of the execution of the deed was not, the President of the United States, nor the trustee in trust of the United States, nor was title thereby conveyed.

By Mr. Southern,-

"I offer in evidence a copy of the original plat of the subdivision of Lots six in St. John's addition to the city of Memphis, according to the plat of record in the office of the Register of Shelby County, Tennessee, and the same is marked exhibit "V.S.".

By Mr. Southern,-

"I now offer a copy of the plat of St John's addition to the city of Memphis, Tennessee, recorded in book [illegible] page [illegible], and the same is marked exhibit "W.S.".

By Mr. Southern,-

"I now offer a copy of the plat of St John's addition, lot of St John's addition to the city of Memphis, as recorded in book [illegible] page [illegible], and the same is marked exhibit "X.S."

By Mr. Southern,-

"I now offer a plat of Prospect Place, an addition to the city of Memphis, as recorded in the [illegible] as [illegible] book [illegible], and the same is marked "Y.S.".

By Mr. Southern,-

"Also I offer a plat of Fenway and [illegible] Surface subdivision of Lots six in St John's addition to the city of Memphis, according to the plat of record in the office of the Register of Shelby County, Tennessee, and the same is marked "Z.S.", with a [illegible] attached".

By Mr. Kelley,-

"Upon and all of the plats offered in evidence are objected to for the reason that they are incompetent, irrelevant and immaterial and do not describe the property in controversy in this suit."

By Mr. Southern,-

"I now offer a copy of the deed from James Pickle to John Maxwell, with accompanying [illegible] certificate for the purpose of showing the date of the record of said deed". (The copy of said deed referred to and offered in evidence is marked exhibit "A.A.) The original deed is not in evidence but is offered for the purpose of showing the date of the recording".

By Mr. Kelley,-

"That is objected for the reason that it is immaterial and not the best evidence, the original deed having been introduced in evidence which shows the date of the record-ing".

Thomas Maxwell of lawful age being produced, sworn and examined on the defendant's, testifies as follows,-

Direct examination by Mr Southgate,-

1 Q-State your name to the reporter? A-Thomas Maxwell

2 Q-Look at this map, Mr Maxwell xxx xxx marked exhibit "A.S.O.",-the one of no. one here you, and see if you recognize it, and if you do recognize it to state the tract to me? A-Well what do you want?

3 Q-Well state if you recognize it, and recognize on it within the blue lines,-within the boundaries of the tract as indicated within these blue lines,-the description of a tract of land with which you were acquainted?

Counsel for the plaintiff objects to the question since the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and leading.

A-Yes, sir.

4 Q-You recognize within these blue lines here, the description of a tract of land with which you are familiar? A-Yes, sir I do.

5 Q-How long have you known it? A-Well I could say I have known it for forty years or more.

6 Q-You have known it for forty years? A-Yes, sir,-xx my entire life I believe.

7 Q-Well do you know if it was ever in the name of the Indians? A-No sir I do not.

8 Q-Well do you know if you know it? A-Yes I know it-

9 Q-Now tell about what year it was you first knew it,-how far back have you known it? A-Well I have seen it ever since I was a babe,but I reckon I was too small to say I knew it then.

10 Q-Well about what time do you remember first knowing it? A-Well I have known it I would say from,- all I would say I know it a long time ago,for I have been on the place originally xxxxx ever since I was small to say. I have been on it every time for that matter,-Well I could say that I have known that place from 'ninety up to the present time. That is I have been on it well since that time,but I was on the place of course before that time,but I don't remember so much about it.

11 Q-Where abouts did you live on it first?

Counsel for the plaintiff objects to the question since the witness on the ground that it is immaterial, and leading.

A-I lived on my father's property first.

12 Q-Well how long ago was that,-well you said forty years ago,so let that pass. For how old were you in 1900? A-In '48,-let us see, I was then about twenty years old. Yes sir,in '48 I was seven years old.

13 Q-Well for long after that time could you say at the date it which you knew it to be your father's property

Counsel for the plaintiff objects to the question xxxxxx on the ground that it is immaterial.

A-Well I could say it could be in the early sixties and years.

14 Q-Well about how early in the sixties could it be? A-Well I should say some years in '60 or '61,-some where along in there I think.

15 Q-Do you know at any time whether your father owned anything,either, property?

29 Q—Where did this lots lie with reference to this plat plan? A—Well I think they were corner lots,—if I [illegible] then they were corner lots. I think they were upon the corner and I think he took two of them.

30 Q—That was Murray? A—Yes sir. I remember when old man Murray came down to close the trade up for I [illegible] in the [illegible] the house at the time.

31 Q—On that street, [illegible] sir?

Counsel for the plaintiff objects to the question asked the witness, on the ground that it is leading and immaterial, and [illegible]. A—[illegible] – the [illegible]

32 Q—They were on [illegible] street? A—Yes sir.

33 Q—[illegible] lines as indicated on [illegible] the lots that were [illegible] sold by ~~xxxx xxx~~ [illegible]? A—Yes sir. Counsel for the plaintiff objects to the question for the reasons [illegible]

34 Q—[illegible] time did [illegible]? Give the date of [illegible]? A—Pretty [illegible] in the latter [illegible] 1856. ~~xxxxxxxxxx~~ [illegible]

35 Q—[illegible] month of [illegible] lose your [illegible]? A—Yes sir.

36 Q—[illegible]? A—Yes sir.

37 Q—[illegible] W[illegible] the [illegible]?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and immaterial, and [illegible]. A—[illegible] I know it [illegible].

38 Q—[illegible] it? A—[illegible] it. I ~~xx~~ know [illegible] a little [illegible]—it [illegible] (in [illegible] a ~~xxxxxxxx~~ point [illegible]).

39 Q—[illegible]? A—[illegible] of [illegible] old [illegible].

40 Q—A little tri-[illegible] there? A—Yes sir.

41 Q—In [illegible] of the [illegible] lot? A—Yes sir. I remember that [illegible] other [illegible] in [illegible] of Trott for a brick kiln.

42 Q—[illegible] in the [illegible]? A—[illegible] sir.

43 Q—And [illegible] ~~xxx~~ [illegible] present [illegible] is [illegible]?

Counsel for the plaintiff objects to the question [illegible] the [illegible] set forth.

A—Yes sir.

44 Q—[illegible] lot? A—[illegible], but I remember they were very particular about [illegible] done on that lot. I [illegible] that, [illegible] little corner [illegible] to [illegible] Trott for the brick kiln. I [illegible] them talking about it [illegible] about [illegible] that corner or tri-angle [illegible].

Counsel for the plaintiff objects to the question [illegible] the witness and the answer of the witness regarding this [illegible] described; for the reason that it is hearsay, [illegible], irrelevant and immaterial, and does not [illegible] property in controversy, and [illegible] that property about which there is no question as to its belonging to the plaintiffs, if the plaintiffs claim it, [illegible], and moves the Court to strike the answer of the witness from the record for that reason.

45 Q—Do you know anything about a field [illegible] ~~[illegible]~~ any of these paid to them?

Counsel for the plaintiff objects to the question on the ground that

it is irrelevant and immeterial,and leading.
A-Well I could not say as to that Mr Southern. It is just this way Mr Southern,-I could not be positive on that score at all. I know one thing though and that is that there has been a great deal of trouble over that property there. I know that.

46 Q-Did Woodson ever have it in his possession,or any part of it? A-Not that I know of.

47 Q-Do you know anything with reference to a rock fence being on any of the lines around it? A-Yes sir,I know something about it.

48 Q-About the rock fence? A-Yes sir. I know something about the rock fence.

49 Q-You remember that there was a rock fence ~~xxxxxxxxx~~ there on some of those lines? A-Yes sir.

50 Q-Where was that rock fence? A-I can't say just where all of it was,and I don't know that it was on the line,but I think it was,and it run around in this way

51 Q-I am talking now about Woodson & Maxwell's addition as well as the balance of the tract? A-Yes sir,I understand,-it is this tract here inside of those blue lines that you are talki ng about.

52 Q-Well was there any field there in any ~~xxx~~ part of this tract bounded by those blue lines at any time before the war? A-Yes sir I think there was.

Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and immeterial,and incompetent,and leading.

53 Q-There was a field there? A-Yes sir,I think so.

54 Q-Well was there? A-Yes sir.

55 Q-Well can you tell me something about the extent of the field? A-No sir.

56 Q-Can you tell me something about the extent of the rock fence? A-Well no sir I can't tell you much about the size of that field or how much there was of the rock fence there but I remember there was a pretty big long piece of it,for I remember that we got behind it one night to try the Federals a whack during the war.

57 Q-That was during the war? A-Yes sir,-there was a fight here,and we got behind it I remember to try them a whack.

58 Q-In what year was that? A-That was in the early part of the war.

59 Q-Had that fence been there for some time before that? A-Oh it had been a long time since it had been put there apparently. It was not a new fence at that time I think.

60 Q-For how long had it been there at that time? A-I could not say. I really could not remember. I guess it was put there before I was old enough to remember any thing about it.

61 Q-Well what was it there for? A-It was an enclosure.

62 Q-An enclosure for what purpose? A-To enclose that land of course. It was not put there for fun I think

63 Q-What land or ground do you refer to? A-This here.

64 Q-Well do you refer to the ground inside of these blue lines as indicated on this plat? A-Yes sir. Well now it don't seem to me that it was clear up there. It don't seem to me that it did,but it went a part of the ways. It seems to me that that part that it enclosed was probably Woodsons property,for I think he put it there.

65 Q-Where was that field as near as you can recollect?

Counsel for the plaintiff objects for the reasons above set forth.

A-Well it laid out here some where it seems to-me.

66 Q-Where was that from the rock fence you say was there? A-It was right there,-it was this way.

67 Q-Running east? A-Yes sir,-kind of an easterly direction.

68 Q-To what line,-how far east did it run? A-I could not say. I remember kind of an indistinctly that it was a considerable field or pasture.

69 Q-Well assume that that street there was Walnut street ,would you say it went up that far? A-Yes sir,I would say it went up that far.

70 Q-You would say it went up to Walnut street? A-Yes sir.

71 Q-Well did run up any where else? A-Yes sir,it strikes me that it run up further east than that but I could not say how far it did run. I did not pay much attention to it or to try to keep it in my recollection. Of course I know at one time where it was,but it has been so many years ago,that I have forgotten pretty much all I knew about it.

72 Q-On which side of Walnut street was it,-the north side or the south side? A-The south side.

73 Q-How far did it run that way? A-I couldn't say. I know there was a considerable little filed in there I remember it ran out there to Woodsons and that is on Temple street.

74 Q-Well about how much was enclosed there with the fence? A-Well I think that whole thing was enclosed there.

75 Q-Do you think it went as far as the blue line on the east of the map there?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading and irrelevant and immeterial.

A-Well yes sir I would th nk that it did. Yes sir I think that was all enclosed,but I could not say positively though.

76 Q-Well now have you any recollection as to who enclosed it? A-No sir I have not.

77 Q-You don't recollect anything about who enclosed it? A-No sir.

78 Q-Was it enclosed there when your father owned any part of it? A-Yes sir.

79 Q-What part of it was enclosed then? A-That part of it that was fenced was enclosed then.

80 Q-Your father died in what year,did you say? A-My father died in 1856.

81 Q-How long before his death was it enclosed? A-Well now that is something I could not say.

82 Q-Was it enclosed some years before his death? A-Yes sir. It was enclosed some years before his death,for I remember that it seemed to be an old enclosed place in there during the war. I remember that at that time it was all an enclosure.

83 Q-Was it cultivated? A-Well now I could not say. I don't recollect whether it was cultivated or in pasture at that time,but it was under fence,that place was. I remember that well enough, and I expect there are others who remember the same thing here yet.

84 Q-Do you recognize on this plat,north of what is marked on it as Walnut street,and within the blue lines,as any addition to the city of Independence? A-Yes sir.

85 Q-You do? A-Yes sir.
Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading,incompe tent and immeterial,and calls for an opinion of the witness.
A-Yes sir.
86 Q-Well what is it? A-I recognize that as Woodson and Maxwells addition to this city.
87 Q-You recognize it as Woodson and Maxwells addition to the city of Independence? A-Yes sir.
88 Q-How long ago do you remember of any one living where in Woodson and Maxwells addition?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A-Well it is hard for me to say as I before stated on account of the length of time that has elapsed, but old man Murray must have been there as long ago as '50 or '51 I expect.
89 Q-Well was he there in '55? R-Yes sir.
90 Q-Was he there in 1860? A-Well I couldn't say whether the old man was alive then or not.
91 Q-Do you remember when he died? A-Not the ~~exact~~ date
92 Q-Was the house there in 1860? A-Yes sir.
93 Q-Is it there still? A-I don't know. I ~~don't know~~ think not but still I don't know about that.
94 Q-What sort of a house was it? A-A little brick. I haven't noticed it lately and so I can't say whether it is there or not I did not think it was of any importance,and so I don't know whether that house is still there or not.
95 Q-Well was there any body else living in there at that time,or along about that time? A;-? A-I can't say.
96 Q-~~Z~~ Do you know of any other house being built in there prior to the war? A- I think there was.
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immeterial,and does not refer to the land in controversy in this case.
97 Q-What was your answer? A-I said I thought there was,but still I do not know Mr Southern.
98 Q-You think there was? A-Yes sir.
99 Q-But you don't call to mind who had a house there? A-No sir.
100 Q-Well was there any house built there after the war? A-Yes sir.
101 Q-Was there more than one? A-Oh yes sir,several of them.
102 Q-How soon after the war did the building begin?
Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.
A-It was right away after the war.
103 Q-Right directly after the war there was houses built there? A-Yes sir,-several of them I think.
104 Q-You mean by that answer,that it was right directly after 1865?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading and incompetent.
A-Yes sir.
105 Q-To what extent have houses been built there in Woodson's & Maxwell's addition'? A-Well it has been considerable. There has been considerable building going there. It has mostly all been built up you might say.
106 Q-There has been houses built on all the lots?
A-Yes sir.

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading,immeterial,and not affecting the land in question.

I07 Q-Beginning at what time was this building done?
A-From what time,-do you want to know the time they commenced building down there?

I08 Q-Yes sir? A-Well say beginning in 1850 and from that time on down. That was the first I think,and from that time on upmore or less it has continued.

I09 Q-That was the time that the building commenced?
A-Yes sir,I think so,and they may be building there yet for all I know. I have not noticed to state particularly what time there was the most building done down there,but I notice that it is mostly all built up.

II0 Q-Do you know of any buildings on the part south of Walnut street? A-Yes sir.

Counsel for the plaintiff objects to the question for the reasons above set forth.

III Q-How was it with reference to that before the war?

Counsel for the plaintiff objects to-the question for the reasons above set forth.

A-Well I could not say as to that.

II2 Q-That is to say you don't call any to mind? A-~~Yes~~ No sir.

II3 Q-Well were there any buildings built there subsequent to 1860?

Counsel for the plaintiff objects to the question for the reasons above set forth.

A-1860? Yoh yes,-I know when St John built there. He and Dalton built there. I remember that now.

II4 Q-Well what did he do? A-St John?

II5 Q-Yes sir? A-He built there,and laid out an addition

II6 Q-He sold lots there,built a house and laid out an addition did he?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading and immeterial.

A-Yes sir.

II7 Q-Take the witness?

Cross examination by P .P. Kelley,-

II8 Q-Mr Maxwell is it not true that the stone fence which you have spoken of,was on the south side of Walnut street,and extended from Temple street east to the north east corner of Chrisman's property? A-It might have been.

II9 Q-Well is it not true,and the fact that it did?
A-I say it might have been. I am not testifying to anything positively here,-I am just giving the best of my recollection.

I20 Q-You don't know positively where it was? A-~~Yes~~ No sir, but I think it was down here on Lexington street. I think it was down where I said it was.

I2I Q-But you would not say it was not on the south side of Walnut street,and extended from Temple street east to the north east corner of Chrismanrs property?
A-No sir.

I22 Q-What kind of a fence wa s that? A-It was a stone or rock fence,I remember well enough that it was down here running along the road,and when a man has the experience I had with it he is not likely to forget it you know. I remember being behind it with a gun he knows he was there,and that was my experience for I know it was a stone fence and made a pretty good breast work. Now I know that as well as I can know anything,

I23 Q-Well was there not a stone fence at the point I have indicated? A-Out here(indicating a point on plat)?

I24 Q-Yes sir? A-There was a fence there I suppose,but I could not say what kind of a fence that was.

I25 Q-Well now is it not true Mr Maxwell that the stone fence along what is now known as the Lexington road, or street,-street or road which ever it is called,- commenced at or near what is known as the Pacific Bridge,and extended along the south side of the road, to about the point where St John street is now as designated on the map,and then ran directly east? A-No sir It ran further than that. From my knowledge of it it ran about to-that point there(indicating a point on plat).

By Mr Southern,-

I26 Q-About to Walnut street it ran? A-Yes sir that is about to where it ran according to my recollection of it.

I27 Q-That is what I thought? A-Yes sir. that is the way I remember it now.

By Mr Kelley,-

I28 Q-Was there any fence at Lexington street at the point where it inter sects Walnut and from that to Temple street,on the south side of Walnut? A-Yes sir I think there was.

I29 Q-Well was there? A-I think there was?,but of course I don't remember very well about that. I-can't remember those things they were so long ago and I did not pay any particular attention to the matter at the time. Of course it was a stone fence that was there along Lexington street,-there is no doubt of that,for it would be a dogged fool that would build a fence like that any where else but along the road. Now I think there was a fence there where you say,but I can't say whether it was a stone fence or not. It might have been but I ~~don't~~ hardly think any one would built a stone fence there. If the fight had been done there instead of where it did,and the road run down there instead of where it did I might remember more about it than I do.

I30 Q-Is it not true that when you were behind that stone fence fighting the Federals that you were in this Chrisman field? A-No sir we were right there along the road. I would not be such a dogged fool as not to know when we were off the road. That is where we were,and we were behind the stone fence too. I would not be such a dogged fool as not to remember that. You would remember it I will bet you if you had been there. I know where I was.

I31 Q-Now you have been testifying to the fact that there were some houses built on the same property,that is designated on this map some where? A-Yes sir.

I32 Q-Do you mean to be understood as saying that you over saw any houses built on lots from fifteen to down to twenty two? A-Did I ever say so I had?

I33 Q-No sir I don't say that you did,but I want to get it right now. Do you say now that you ever saw any houses built on any of these lots from fifiteen to twenty two? A-No sir I don;t say so now,and I did not say so then. I don't think there has ever been a house built on any of these lots,-only there is a little church built there now.

I34 Q-If there was a house at any time built on any of these lots you don't know anything about it A-If there ever was a house built there I don't remember over seeing it,and I don't believe there ever was,-

I23 Q-Well was there not a stone ~~xxxx~~ fence at the point I have indicated? A-Out here(indicating a point on plat)?

I24 Q-Yes sir? A-There was a fence there I suppose,but I could not say what kind of a fence that was.

I25 Q-Well now is it not true Mr Maxwell that the stone fence along what is now known as the Lexington road, or street,-street or road which ever it is called,- commenced at or near what is known as the Pacific Bridge,and extended along the south side of the road, to about the point where St John street is ~~xxxxxxxx~~ now as designated on the map,and then ran directly east? A-No sir It ran further than that. From my knowledge ~~xx xx~~ of it it ran about to-that point there(indicating a point on plat).

By Mr Southern,-

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I27 Q-That is what I thought? A-Yes sir. that is the way I remember it now.

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I29 Q-Well was there? A-I think there was?,but of course I don't remember very well about that. I-can't remember these things they were so long ago and I did not pay any particular attention to the matter at the time. Of ~~xxxx~~ course it was a stone fence that was there along Lexington street,-there is no doubt of that,for it would be a dogged fool that would build a fence like that any where also but along the road. Now I think there was a fence there where you say,but I can't say whether it was a stone fence or not. It might have been but I ~~can't~~ hardly think any one would built a stone fence there. If the fight had been done there instead of where it did,and the road run down there instead of where it did I might remember more about it than I do.

I30 Q-Is it not true that when you were behind that stone fence fighting the Federals that you were in this Chrisman field? A-No sir we were right there along the road. I would not be such a dogged fool as not to know when we were off the road. That is where we were,and we were behind the stone fence too. I would not be such a dogged fool as not to remember that. You would remember it I will bet you if you had been there. I know where I was.

I31 Q-Now you have been testifying to the fact that there were some houses built on the same property,that is designated on this map ~~xxxx~~ some where? A-Yes sir.

I32 Q-Do you mean to be understood as saying that you ever saw any houses built on lots from fifteen ~~xx~~ down to twenty two? A-Did I ever say ~~xx~~ I had?

I33 Q-No sir I don't say that you did,but I want to get it right now. Do you say now that you ever saw any houses built on any of these lots from fifiteen to ~~x~~ twenty two? A-No sir I don;t say so now,and I did not say so then. I don't thing there has ever been a house built on any of these lots,-only there is a little church built there now.

I34 Q-If there was a house at any time built ~~xxxxx~~ on any of these lots ~~xxxx~~ you don't know anything about it A-If there ever was a house built there I don't remember ever seeing it,and I don't believe there ever ~~xx~~ was,-

if there ever was I don't remember anything about it, and that is what I said all the time.

135 Q-The little house that is built on som e of these xxxx lots now is the only house you ever saw built there? A-Yes sir.

136 Q-Did you ever see any fence enclosing these lots or either of them, at any time prior to the time that the fence that is now surrounding them was built? A-Well I could not say. I don't remember that I ever saw a fence enclosing them particularly. As I think over it it seems to me that there was, but when it comes to swearing positively to it, I can't say that I do remember seeing a fence there, and I will not swear to anything positively, xxxxxx without I know it positively.

137 Q-Well was there,-do you recollect of any xxxxxx fence near there exceptxxx the one that you recollect being along the south side of Walnut street, there along the road here? I mean along Lexington Avenue and Walnut street? A-That is the only one I can swear to.

138 Q-Well that is all?

Witness fees $1,00 paid by defendants.

By Mr Southern,-"Now this will not be a part of the regular order of proceedure, but I want the Deputy-recorder of Deeds sworn as a witness, as he is here in the room, but his examination will take only a minute or two".

W.R. Hall. of lawful age, being produced, sworn and examined on the part of the defendants, testifeid as follows,-

Direct examination by Mr Southern.

1 Q-Mr Hall you are the sa me gentleman who testified to the facts that you were deputy recorder for the plaintiffs here-to-fore, in this case? A-Yes sir.

2 Q-You have access to, and charge of the recorders office in this city have you not? A-Yes sir.

3 Q-And you are the deputy recorder? A-Yes sir.

4 Q-What is the book that you have in your hands at the present time? A-Why it is what we call the "original entry book".

5 Q-Where did it come from? A-It came from the recorders office.

6 Q-From the office of the recorderx of deeds for Jackson County, Missouri? A-Yes sir.

7 Q-Will you read from that book its title and date? A-I don't find an y title to it.

8 Q-Can you tell what the purpose of the book is from xxxx looking at it?

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it is incompetent, irrelevant and immeterial.

9 Q-Can you tell what is done with the book then,-what its purpose is?

Counsel for the plaintiff objects to the question asked the witness for the reasons above stated, and for the additional reason that the book itself is the best evidence.

10 Q-You may answer the question? A-We use it to find certain pieces of land. It shows all the entries of land for Jackson County, and by whom entered.

11 Q-What is the book? A-It is the book if I understand it right. It is the book that shows who entered land

12 Q-Entered the land from the Government? A-Yes sir.

Counsel for the plaintiff objects to the question xxxxx xxxxxxx for the reasons above set forth.

13 Q-Now can you find any entries in that book any where of land by Edward Partridge, in this county? A-Yes sir.
14 Q-You can? A-Yes sir, lots of it.
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and for the reason "that the record from which the witness is now testifying is not properly identified".
15 Q-Well please read from the book the entries which you find in there? A-You mean just the entries relating to the land that was entered by Edward Partridge?
16 Q-Yes sir? A-The entries in the name of Edward Partridge?
Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.
A-Well there is the north west quarter of section 21-49,33, entered July the 26th 1831 In the name of Edward Partridge. That is one, and here is another,- the east half of the north est quarter of the same section, township and range, September the 16th 1831. Here is the east half of the north west of 32-49,33, September the 16th 1831. There is the west half of the north east quarter of 5?-49-33, entered July 26th 1831, and here is the south west quarter of 30-49,33 entered July 26th 1831, and also the south east half of 27-49-33, entered January 23rd 1833 by Edward Partridge. Here is the north east of 21-49-33,-it don't say the date of the entry on here. And there is also the east half of the north west of 21-49-33, -there is no date of entry to that either. Here is the east half of the north west quarter of 16, and the west half of the north east of 16, entered November 23 rd 1831

Here is the north west of 13-49-33, entered October 12th 1833,-no it is '31, and the north east of 13-49-33, entered December 8th 1832. That is all.
By Mr Kelley,-"We object to all of this testimony of the witness for the reason that it is incompetent, irrelevant and immaterial, and has no reference to the land in controversy in this suit, but plaintiffs admit that Edward Partridge some time before the year 1835 entered the land here in described.

Cross examination waived.

Witness fees $1.00 paid by defendants.
By Mr Southern,-"I offer the tax receipts of the Collector of Jackson County for the taxes paid on lots 2, 3, 17, 18, 19, 22 in Woodsons and Maxwell's addition to the city of Independence for the years a 1866, and it is admitted that the receipts was signed by the Collector of taxes for Jackson County."
By Mr Kelley,-"Well that is objected to by the plaintiff for the reason that it is incompetent and immaterial, and does not show on its face that it was paid by any one interested in this case".
By Mr Southern,-"I will have Mr Owen sworn".
Alma Owen ~~Owen~~ of lawful age, being produced, sworn and examined on the part of the defendants, testified as follows,-
Direct examination by Mr Southern,-
1 Q-State your full name to the Notary? A-My name is Alma Owen.
2 Q-Now Mr Owen I will ask you if you had anything to do with that temple lot or property as far back as 1867? A-No sir.
3 Q-How far back did you have anything to do with it, if at all? A-Well as far as to my having any busi-

ness in connection with it I will say that it came into my hands about probably 1878 or '80 or along there some xxxxx time.

4 Q-Look at that tax receipt Mr Owens?(I refer to the tax receipts for the xxxx taxes for the year 1866 paid in 1867, heretofore offered in evidence)?X A-Well what do you want to know about it?

5 Q-Look at that tax receipt Mr Owens,and state if you have ever seen it before? A-Yes sir.

6 Q-Where did you see it? A-It was in my possession in connection with other papers that were put into my hands.

7 Q-Who were they put into your hands by? A-The church

8 Q-Well,who handed them to you? A-If I ain't much mistaken this receipt along with a lot of other papers were given to me and Mr Hill down at Gardiner by the widow of Granville Hedrick.

9 Q-They were given to you by the widow of Granville Hedrick? A-Yes sir that is my impression.

10 Q-When were they given to you by the widow of Granville Hedrick? A-I can't remember the date. I can't remember what date it was but it strikes me that it was in 1880 I think. It was in the year '78 or '80,-some where along about that time.

11 Q-Well do you think it was about '80? A-Yes sir, about that time.

12 Q-Well what did you do with it after you got it? A-I took care of it.

13 Q-Is it in your possession now? A-Yes sir.

14 Q-I don't think you understand the question,-I asked you if it was in your possession now? Of course you have it in your hands now,but what I want to know is who has had possession of it lately if you know? A-No sir I have not had it lately,they were all turned over to Mr Hill,-it along with some other papers.

15 ~~Q-Let me understand this,-you had possession of these papers at one time,and then you turned them over to some one else?~~ A-Yes sir.

XX ~~Q-XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

15 Q-Let me understand this,-you had possession of these papers at one time,and then you turned them over to some one also? A-Yes sir.

16 Q-Who did you turn them over to? A-To Mr Hill.

17 Q-Who turned them over? A-I did.

18 Q-When? A-I think about the time that I got them. I don't think I ever took this papers him e with me.

The tax receipt referred to,and offered in evidence hereto, fore,being the receipt for the taxes of the year 1866,~~p~~ paid in 1867 is marked exhibit "105".

19 Q-Do you recognize this tax receipt signed by H.H. Williams,Collector of Jackson County,Missouri,which is above that. I refer to the tax receipt as it is placed in this book here(referring to the book in which the tax receipts are pasted)? A-Yes sir I think I do.

20 Q-Where did you first see that if you recollect? A-I think that was with the papers that I got,and which I turned over to Mr Hill.

21 Q-That was handed to you at that time? A-Yes sir.

22 Q-Along with the other papers? A-I think so.

23 Q-Well I will offer this in evidence,and the signature of H.H. Williams as Collector of Jackson County is admitted.

The tax receipt above referred to and identified by the witness is marked exhibit "106".

Counsel for the plaintiff objects to the introduction in evidence of exhibit "106",on the ground that it is incompetent,irrelevant and immaterial.

24 Q-I will ask you if you ever saw that tax receipt? A-Yes sir.

25 Q-I now offer a tax receipt for delinquent taxes for lots 16,20,and 21 in Woodson and Maxwell's addition to Independence,Missouri.

for the year 1870,and the receipt is dated November 10th 1871,and signed by James L. Gray,Collector of taxes for Jackson County,Missouri. Have you ever seen that tax receipt before? A-Yes sir I have seen that.

The tax receipt identified by the witness,and offered in evidence is marked exhibit "107".

26 Q-You have seen that reciept before? A-Yes sir.

27 Q-Where did you see it? A-It was in with those papers that were put in my charge belonging to the church

28 Q-What did you do with it? A-I kept it until,-well now I really don't know that I took that receipt to my house or not. I can't say to that,however,it was in my possession for a time. I think that I did not take it to my house. I know that it and the other papers were in the charge or possession of Mrs Hedrick at the time that we got the papers from Mrs Hedrick.

29 Q-And you turned them over,you say,to Mr Hill? A-Yes sir.

By Mr Kelley,-"The plaintiffs object to the tax receipt offered in evidence which is marked exhibit "107",and to each and every one of the foregoing questions referring to it or any other tax receipt on the ground that they are incompetent,~~xxxxxxxxxxxx~~ immaterial, and ~~xxxxxxxxx~~ irrelevant,and the introduction of exhibit "107" is objected to for the same reason,but the signature of the Collector to the tax receipt is admitted.

By Mr Southern,-

30 Q-I now offer in evidence a tax receipt,~~xxx~~ marked exhibit "108",signed by James L Gray,collector by his deputy,purporting to be a receipt for the payment of taxes on lots 16,20 and 21,in Woodson and Maxwells addition to the City of Independence?

By Mr Kelley,-"That is objected to for the same reasons as were given in the objection to the last receipt offered in evidence.

By Mr Southern,-

~~31~~

31 Q-Did you ever see that tax receipt before? A-I think so.

32 Q-If so,where did you see it? A-It was in connection with those papers that were in our charge.

33 Q-At the time you have mentioned with reference to the other receipts? A-Yes sir.

34 Q-Did you obtain that receipt at that time? A-Yes sir.

35 Q-From whom? A-From Mrs Hedrick.

36 Q-What did you do with it? A-It was kept with the rest of the papers until turned over to Mr Hill.

37 Q-I now offer a tax receipt for the taxes paid on lots 16,20 and 21, in Woodson and Maxwell's addition to the city of Independence,to James L Gray,Collector and ask you if you have the same answer to make to that tax receipt and your knowledge regarding it,that you have made to the other tax receipts I have shown you? A-Yes sir.

The tax receipt last referred to is marked exhibit "109".

By Mr Kelley,-"That is objected to for the reason that it is incompetent,irrelevant and immaterial,and shows on its face that it was not paid by any one interested in the property in controversy.

By Mr Southern,-

38 Q-I now offer tax receipts for the taxes paid on lots 16,20 and 21 in Woodson and Maxwell's addition to the city of Independence for the year 1873,marked exhibit "110",and the same objections and the same admissions are made with reference to this exhibit,it is understood that were made with reference to the others,-and the

same testimony from Mr Owens. A-Yes sir.
By Mr Kelley,-"Yes sir that will do".
By Mr Southern,-"Now I want to ask Mr Hill a question,-
Richard Hill, of lawful age, being produced sworn and examined on the part of the defendants, testified as follows,-
(On account of the fact that the examination of Mr Hill was carried on at the same time as the examination of Mr Owens was conducted, in so far as the tax receipts here after offered in evidence, is concerned it is impossible to separate them, and the examination of the two witnesses above mentioned are included in so far as that branch of their testimony is concerned, in the one line of questions).
39 Q-Mr Hill have you,-or do-you know anything about the possessions of these tax receipts, which have been testified to here by Mr Owens? A-Yes sir, something.
40 Q-Well what do you know about them? A-Well I know that I have had them in my possession for about ten years.
41- Q-Well how did you obtain them? A-From whom did I get them?
42 Q-Yes sir? A-Well I got them from Mr Owens.
43 Q-This applies to all the tax receipts that have been presented heretofore? A-Yes sir.
44 Q-Well that is all I have to ask you for the present?
Alma Owens,-direct examination resumed by Mr Southern,-
45 Q-I now offer a tax receipt for taxes paid on lots 16,20 and 21-in Woodson and Maxwell's addition to Independence, Missouri, signed by H.W. Anderson, collector, dated the 16th day of March 1875, and the signature of the collector is admitted.
The tax receipt above referred to is marked exhibit "III"
By Mr Kelley,-"That is objected to as incompetent, irrelevant and immaterial, but the signature of the collector is admitted."
By Mr Southern,-"
46 Q-Look at that tax receipt, and say if you ever saw it before? A-Yes sir, I have seen it before.
47 Q-Where did you see it? A-Well I got that tax receipt from the ~~tax~~ collector myself.
48 Q-Who paid the money for it? A-I did.
49 Q-For whom did you pay it? A-For the church.
50 Q-For what church? A-Well we call it the church of Christ, but by some it is called the "Hedrickite faction" in the Mormon church.
51 Q-The defendant church in this case? A-Yes sir.
52 Q-You paid these taxes as represented by ~~xxxxxxxxx~~ ~~xxxxxxxx~~ this tax receipt for the defendant church? A-Yes sir.
53 Q-I now offer in evidence a tax receipt marked exhibit "112.", being the last receipt dated December 2nd 1875, signed by William Anderson, collector of taxes for the year 1875, being the taxes for that year on lots 15-16, 17, 18, 19, 20, 21 and 22 in Woodson and Maxwell's addition to the city of Independence?
By Mr Kelley,-"Well that is objected to for the same reasons, but the signature of the collector is admitted"
By Mr Southern,-
54 Q-Mr Owens did you ever see that tax receipt before marked exhibit "112"? A-I think so.
55 Q-Where did you see it first? A-I had it in my x possession with those papers.
56 Q-Do you have the same testimony to give about that, as about the others? A-Yes sir.

Richard Hill,-

57 Q-I would ask Mr Hill if he ever saw that tax receipt before? A-I refer to the receipt marked as exhibit "II2"? It is the one that was just testified to by Mr Owens? A-Yes sir.

58 Q-Where did you see it? A-Well sir I have had that in my possession.

59 Q-Where did you obtain it? A-From Mr Owens when he turned over the papers to me.

60 Q-What papers do you refer to? A-The papers he mentioned as having had in his possession which he turned over to me.

By Mr Southern,-"I now offer in evidence the tax receipt marked exhibit "II3,dated the 22nd day of November I856 for taxes for the year I876 on lots I5,I6,I7,I8, I9,20,2I,and 22in Woodson and Maxwell's addition to the city of Independence,-is the signature to this receipt admitted?

By Mr Traber,-"Yes sir the signature to them is admitted right along to every one of them."

Alma Owens,-

By Mr Southern,-

6I Q-Mr Owen did you ever have,-

By Mr Kelley,-"Hold on until we object to that last tax receipt marked exhibit "II3",-we make the same objection as heretofore,-because the tax receipt shows that it was paid,if paid at all, by a party not interested in this proceeding".

By Mr Southern,-

62 Q-Mr Owen what testimony do you give in reference to that tax receipt marked exhibit "II3"?

Counsel for the plaintiff objects to the question asked the witness for the reason that it is incompetent,irrelevant and immaterial,and not proper direct examination.

63 Q-Do you give the same testimony in respect to that that you do in regard to the other proceeding? A-Yes sir.

Richard Hill,-

By Mr Southern,-

64 Q-Mr Hill what do you say to that? A-Well I understand all about that,-that is I had it in my possession,and I got it in the same way that I did the other papers I have spoken about.

Alma Owens,-

By Mr Southern,-

65 Q-I now offer a tax receipt xxxxxxx dated the 2Ist day of xxxxxxxxxx December I877 marked exhibit "II4", for the taxes for the year I877,on lots numbered from I5 to 22 in Woodson and Maxwell's addition to the city of Independence,Missouri,signed Daniel Murphy, Collector?

By Mr Kelley,-"The signature is admitted but the receipt is objected to on the ground that it is incompetent, irrelevant and immaterial."

By Mr Southern,-

66 Q-Mr Owen I will ask you if xxx that is one of the signatures that you xxxxxxxxx recognize? A-Yes sir One of the"signatures,-"it is one of the receipts xx that I had in my possession.

67 xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxhad

Q-Well that is what I mean to say? A-Yes sir I had that x in my possession.

68 Q-Where did you obtain it? A-It was with those papers I think that I got from Mrs Hedrick.

By Mr Southern,-"I now offer a tax receipt dated the I2 th day of xxxx January I880-marked exhibit "II5",on the same property above described".

By Mr Kelley,-"Mr Reporter,note the same objection and the same admission as to the signature of the collector".

By Mr Southern,-

69 Q-You have seen that tax receipt Mr Owens? A-This one here?

70 Q-Yes sir?,-state if you ever saw that before? A-Yes sir.

71 Q-Where did you obtain it,if you ever had it in your possession? A-I am not right sure that I did not pay that myself. I think I paid that myself,but I am not right sure about it.

72 Q-~~Xxxx~~ Look at it and see if you paid it yourself? A-Well I can't be positive about that sir.

73 Q-What is that? A-I can't be positive about that.

74 Q-You cannot be positive as to that? A-As to whether I paid it myself,or as to whether it was with those papers that I got from Mrs Hearick. I can't be right positive as to which it was at this time,but it seems to me that I paid that myself.

75 Q-But you are not positive as to that? A-No sir.

By Mr Southern,-"I now offer a receipt dated the 12th day of January 1880 marked exhibit "II6",signed by Daniel Murphy,collector of taxes for Jackson County, Missouri,on the property above described,and I suppose it can go in with the same objection as to competency,relevancy and materiality as the others did,and with the admission as to the signatures of ~~xxxxxx~~ collector".

By Mr Kelley,-" Well sir that is understood".

By Mr Southern,-

76 Q-Do you recognize that Mr Owens? A-Yes sir.

77 Q-Well what do you know about it? A-Well I have ~~I~~ looked these receipt all over,so far as they have been paid before I took charge of the business and went to paying them myself,and I generally ordered the receipts when I paid the taxes to be so marked to show that I had paid it myself. Now I don't say that I always did this,or that I did it up to a certain time,but I did with some of them I know,and it was my intention to have all of the receipts for taxes that I paid,show the fact that I had paid them. I don't know that they will all show that they were paid by me personally in my own individual capacity, or whether they were paid by me as trustee for the church.

By Mr Southern,-"Now I offer a tax receipt dated the 8th day of May 1883 marked exhibit "II7",on lots 17, 18,19 and 20 in Woodson and Maxwell's addition to Independence,Missouri,signed by R.G. Wilson,Jr,collector by by ~~John~~ C. Wyatt,deputy,and I suppose this is admitted subject to your objection as heretofore stated,but the signature of collector is admitted?

By Mr Kelley,-?Yes sir,that entry may go to the admission of all these tax receipts,with the admission you stated".

Richard Hill,-by Mr Southern,-

~~69~~

78 Q-Mr Hill do you know who paid that receipt marked exhibit "II7"? A-Yes sir.

79 Q-You know who paid it,-is that what you said? A-Yes sir,-it seems as though I should know.

80 Q-Who paid it? A-I did.

Counsel for the plaintiff objects to the question asked the witness on the grounds and for the reasons that it does not call for the best evidence.

81 Q-For what purpose did you pay it? A-For what purpose,-I don't understand that.?

82 Q-In other words for whom did you pay it?,-did you pay it on your

own behalf or did you pay it for some one else? A-I paid it for the church of course.
83 Q-What church? A-The church of Christ.
84 Q-Is that the defendant church in this action? A-Yes sir.
By Mr Southern,-"I now offer a tax receipt dated the 22nd day of March 1880, signed by Daniel Murphy, and marked as exhibit "I18".
85 Q-Mr Hill will you please look at that receipt, and state if you recognize it? A-Yes sir.
86 Q-What do you know about it? A-Well ~~we~~ I know it is the same as the others I had in my possession.
87 Q-Did you pay that? A-No sir.
88 Q-Do you know who paid it? A-No sir,-I did not see it paid and I only know by the name on the receipt.
89 Q-You only know from the name on the receipt? A-Yes sir,-that is all I know about it of my own knowledge, and I suppose that is what you want.
By Mr Kelley,-"Note our same objection as to the admission on that receipt, and the same admission as to the signature".
By Mr Southern,-"Now I offer a receipt dated the 17th dy of December 1880, signed by Daniel Murphy, collector for Jackson ~~County~~ County, marked exhibit "I19", on the lots numbered from 15 to 22 in Woodson and Maxwell's addition to the city of Independence, with the same admission as to the signature of collector, and the same objection as to its admissibility".
Alma Owen,-~~Mr Southern~~, by Mr Southern,-
90 Q-Mr Owens will you please look at that receipt, and see if you know who paid it? A-Yes sir, I know who paid ~~it~~ that.
91 Q-Well who paid it? A-I did.
92 Q-That is one of the receipts for taxes that you paid yourself, personally? A-It is.
93 Q-For what purpose, or upon whose behalf did you pay it? A-I paid it for the church,-as the agent for the church I paid it on behalf of the church.
94 Q-You paid it for the church that you have testified to here before? A-Yes sir,-the Church of Christ.
95 Q-One of the defendants in this action? A-Yes sir.
By Mr Southern,-"Now I offer in evidence a receipt dated the 7th day of December 1880 for the taxes for the year 1880 on lots numbered from 15 to 22 inclusive, signed by John M Swearingen, collector, and it is admitted that the signature is the signature of the collector, and the plaintiffs objection as here in before noted, runs to this offer as well as all the others".
Rochard Hill,-by Mr Southern,-
96 Q-Mr Hill do you know who paid that tax receipt marked exhibit "I20"? A-Yes sir.
97 Q-Well who paid it? A-Well I paid that tax myself, and got that receipt.
98 Q-And you paid it on behalf of the defendant church? A-Yes sir.
Alma Owen,-by Mr Southern,-
99 Q-Mr Owen will you look at that tax receipt, marked exhibit "I21", and state what you know about it? A-Yes sir I have seen it before.
100 Q-Who paid that? ~~for you~~ A-I did.
101 Q-For what purpose? A-For the church.
102 Q-Well I offer it in evidence".
By Mr Kelley,-"Consider it in with the same admissions and the same

Objections".

By Mr Southern,-

103 Q-You say you paid that for the church as its agent? A-Yes sir agent or trustee,-

By Mr Southern,-"I will now offer a tax receipt,dated the 28th of December 1881,signed by Red Silver as collector on the same property,and which said tax receipt offered in evidence is marked exhibit "122", and is for the taxes for the year 1881. It is offered subject to the plaintiffs objection as here in before noted,and the signature of the collector is admitted."

104 Q-Mr Owens look at that receipt and state if you ever saw it before? A-I did.

105 Q-If you know who paid it you may state the fact? A-Yes sir I know who paid it,-I paid it myself.

106 Q-For what purpose did you pay it? A-For the church

107 Q-For what church? A-For the church of Christ.

108 Q-For the defendant church in this action? A-Yes sir

By Mr Southern,-I offer a tax receipt dated the 21st day of October 1882,marked exhibit "123" signed by W.H. Wilson,Jr,collector,marked in duplicate for the same property,-that is to say lots numbered from 15 to 22 inclusive,in Woodson and Maxwell's addition to the city of Independence,Missouri,and this receipt is offered subject to the objection of plaintiffs as to its relevancy,competency,and materiality,with the admission that the signature attached is the signature of the collector of Jackson County as it purports to be.

109 Q-Now Mr Owens who paid that? A-I did.

110 Q-Did you say-you paid it?- A-I did,-Yes sir,it was paid by me.

111 Q-For what purpose? A-For the same purpose as I have before stated.

112 Q-You paid it on behalf of the defendant church? A-Yes sir.

By Mr Southern,-"I offer now a tax receipt,or rather a receipt for taxes,dated the 18th day of December 1883, signed by W.H. Wilson,Jr.,as collector of taxes,covering the same property.

The tax receipt above offered in evidence is marked exhibit "124".

The tax-receipt above offered in evidence is objected to by the plaintiff on the ground that it is incompetent,irrelevant and immaterial,but it is admitted that the signature is the signature ~~is the signature~~ of the collector of taxes for Jackson County,Missouri,as it purports to be

113 Q-Mr Owens will you please look at that receipt,and state if you know who paid it? A-I paid it?.

114 Q-For what purpose did you pay it? A-For the same purpose.

115 Q-For the church? A-Yes sir.for the church.

116 Q-For the defendant church? A-Yes sir. For the same church that I have already stated.

By Mr Southern,-"I now offer a tax receipt signed by Benjamin Holmes as collector,dated the 15th day of December 1882,on lots 15 to 22 inclusive,in Woodson and Maxwell's addition to the city of Independence,which is marked exhibit "125",and it is agreed that the signature of Benxamin Holmes thereto attached as his genuine signature,-said receipt being offered subject to plaintiffs objection as here in before set forth.

117 Q-Mr Owens will you please look at that receipt,and state,if you know who paid it? A-Yes sir,that is another one that I paid.

118 Q-You may state for what purpose you paid it? A-Yes sir,-for the same purpose.

119 Q-Well state what the purpose was? A-For the church.
120 Q-For the defendant church in this case? A-Yes sir.
By Mr Southern,-"I now offer in evidence tax receipt marked exhibit "126",dated the sixth day of December 1
1884,signed by Benjamin Holmes,collector,subject to
to plaintiffs objection,with the admission as to
signature ,also tax receipt marked exhibit "127",dated
the 11th day of December 1884,signed by Benjamin Holmes as
collector,also one dated the 16th day of December 1885.
signed by J.C. Hicks,Jr ,as collector,marked exhibit "128
also one dated the 30th day of December 1886,marked exhibit"129",all for the same property,and one dated the 30th
day of December 1887 marked exhibit "130",for the same
property. All of these are offered with the signatures
of the collector signed to them signed,which I understand
is admitted,on subject to the objection of the plaintiff
I also offer tax receipt dated the 14th day of November 1887 marked exhibit "131"also one dated the 6th day
of Nov mber 1888 for the same property,marked exhibit "132
By Mr Kelley,-"Do one every one of the tax receipts
offered in evidence on behalf of the defendant is objected to for the reason that they are incompetent,irrelevant
and immaterial, as the signatures are omitted.
By Mr Cutts r,-
121 Q-Now Mr Smith look at the receipts marked exhibit
"126",and say if you know them? A-Yes sir.
122 Q-You recognize it? A-I do.
123 Q-Now look at the one marked exhibit "127",and state
what you know about that? A-Yes sir I know that also
124 Q-Do you also know the one marked exhibit "128"?
A-Yes sir.
125 Q-Now is it necessary that you produce to the court
the exhibit "128"? do you know that also? A-I do
126 Q-Do you also know the one marked exhibit "129"?
A-Yes sir.
127 Q-And the one marked exhibit "131", do you know
that? A-Yes sir.
128 Q-And the one marked exhibit "132"do you know that?
A-I do.
129 Q-You recognize all of these receipts? A-Yes sir.
130 Q-Did you pay them? A-I did.
131 Q-For what purpose? A-For the church.
132 Q-You did them yourself? A-Y I did.
133 Q-Did you pay them for the church you say,and by
that you mean the church which is in the defendant,
or one of the defendants in this suit? A-Yes sir
When I say the church,I mean the Church of Christ
which is one of the defendants in this suit as I
understand it.
134 Q-Well sir I guess I am through with you. Wait to see
until the gentlemen have an opportunity to cross
examine you if they see fit. In the mean time I
will process will Mr Hill?
Richard Hill by Mr Southern,- by Mr Southern,-
135 Q-I now offer a receipt signed by Frank Wyatt,collector of taxes dated the14th day of November 1887,
marked exhibit "133,-also the tax receipt marked exhibit "134",signed as above,and dated the 5th day of
Nov ber 1888 ,-also the tax receipt marked exhibit
"135",dated the 3rd day of December 1889,signed as
above,-also exhibit "136"there being no date of payment on it,but it is for the taxes for 1889 signed
John F. Davis,city collector,-also the one marked
exhibit"137",on lots 15 and 16 in Wooson and Maxwell's
addition, signed Frank C. Wyatt,collector,dated the
30th December 1890,-also the receipt marked exhibit
"138",signed Walter Rider,city

119 Q-Well state what the purpose was? A-For the church.
120 Q-For the defendant church in this case? A-Yes sir.
By Mr Southern,-"I now offer in evidence tax receipt marked exhibit "126",dated the sixth day of December 1
1884,signed by Benjamin in Holmes,collector,subject to the plaintiffs objection,with the admission as to signature ,also tax receipt marked exhibit "127",dated the 11th day of December 1884,signed by Benjamin Holmes as collector,also one dated the 16th day of December 1885. signed by J.H. Hicks,Jr ,as collector,marked exhibit "128 also one dated the 30th day of December 1886,marked exhibit"129",all for the same property,and one dated the 30th day of December 1887 marked exhibit "130",for the same property. All of these are offered with the signatures of the collector signed to them signed,which I understand is admitted,and subject to the objection of the plaintiff I also offer a tax receipt dated the 14th day of November 1887 marked exhibit "131"also one dated the 6th day of Nov marked 1888 for the same property,marked exhibit "132 By Mr Kelley,-"We are every one of the tax receipts offered in evidence on behalf of the defendant is objected to for the reason that they are incompetent,irrelevant and immaterial,for the signatures are omitted.
By Mr Southern,-
121 Q-Now Mr Owen look at the receipts marked exhibit "126" ,and say if you know what? A-Yes sir.
122 Q-You recognize it? A.-I do.
123 Q-Now look at the one marked exhibit "127",and state what you know about that? A-Yes sir I know that also
124 Q-Do you also know the one marked exhibit "128"?
A-Yes sir.
125 Q-Now is it xxxxxxxxxxxx true that you also know the one marked exhibit "129"? do you know that also? A-I do
126 Q-Do you also know the one marked xxxxxx "130"?
A-Yes sir.
127 Q-And the xxx one marked xxxxxx "131", do you know the?? A-Yes sir.
128 Q-And the one marked exhibit "132"do you know this?
A-I do.
129 Q-You recognize all of these receipts? A-Yes sir.
130 Q-Who paid them? A-I did.
131 Q-For what purpose? A-For the church.
132 Q-You paid them yourself? A-X I did.
133 Q-And you paid them for the church you say,and by that you mean the church which is in the defendant, or one of the defendants in this suit? A-Yes sir When I say the church,I mean the Church of Christ which is one of the defendants in this suit as I understand it.
134 Q-Well sir I guess I am through with you. Wait to see until these gentlemen have an opportunity to cross examine you if they can sir. In the mean time I will process with Mr Hill?
Richard Hill by Mr Southern,- by Mr Southern,-
135 Q-I now offer a receipt signed by Frank Wyatt,collector of taxes dated the14th day of November 1887, marked exhibit "133,-also the tax receipt marked exhibit "134",signed as above,and dated the 5th day of November 1888 ,-also the tax receipt marked exhibit "135",dated the 3rd day of December 1889,signed as above,-also exhibit "136"there being no date of payment on it,but it is for the taxes for 1888 signed John C. Davis,city collector,-also the one marked exhibit"137",on lots 15 and 16 in Wooson and Maxwell's addition, signed Frank C. Wyatt,collector,dated the 30th December 1890,-also the receipt marked exhibit "138",signed Walter Rider,city

collector, dated the 3Ist of December I890 on lots I5 and I6, Dodson and Maxwell's addition, marked exxxx as exhibit "I39",-also a tax receipt dated December I5th I89I, signed E.W. Hayes, collector on lots I5 and I6 Dodson and Maxwell's addition, marked exhibit "I40",-also a tax receipt dated the I5th day of December I89I on lots I5 to 22 inclusive in Dodson and Maxwell's addition, marked exhibit "I4I",-also a tax receipt xxxxx marked exhibit "I42" dated the I5th day of December I89I, signed E.W. Hayes, collector, on lots I6, I7, I9, 20, 2I and 22 Dodson and Maxwell's addition,. Now then Mr Hall I will ask you whether or not these tax receipts were all paid by you?

Counsel for the plaintiff objects to the receipts offered in evidence, on the ground that they are irrelevant, incompetent, immaterial, and to the question asked the witness on the grounds above stated and because it is leading.

A-Yes sir.

I36 Q-They were paid by you? A-Yes sir.

I37 Q-For what purpose? A-For the church.

I38 Q-For what church? A-The church of Christ.

I39 Q-The church that is one of the defendants in this case? A-Yes sir.

I40 Q-That is the church which you as trustee represent? A-Yes sir.

By Mr Kelley,-"We object to all these receipts,-to each and every one offered in evidence for the reasons xx above given, but the signatures ~~of xxxxxxxxxxxxadmit~~ are of course admitted".

Alma Owens,-Direct examination continued by Mr Southern

I4I Q-In what capacity did you give attention to the lots of ground in controversy in this case, and about which you have been testifying, as having paid the taxes thereon? A-I was then the clerk for the church, and the agent for the church.

I42 Q-You were made agent for it? A-Yes sir.

I43 Q-That is for the church? A-Yes sir.

I44 Q-Did you give any other attention to the affairs of the church other than the payment of the taxes as evidenced by these tax receipts, that you have testified you paid? A-Yes sir.

I45 Q-Well what was it? A-Well I was one of the committee that had charge of the improving of these lots,-of this temple property,-and of taking care of it.

I46 Q-Well what did you do with the temple lot with reference to taking care of it, or improving it, if anything? A-Well I assisted some in engineering it,-that is I assisted some and was there at the time Mr Hickman gave us the boundary, and I gave it my time and attention, and assisted in planting out some trees on it, and fencing it.

I46 Q-Fencing it you say? A-Yes sir, I assisted in fencing it and looking after it generally.

I47 Q-What is your recollection with reference to the time that was done? A-With reference to the time it was fenced?

I48 Q-Yes sir? A-Well I don't know that I can state it positively but I might if I had access to some receipts that were given, or something of that kind.

I49- Q-Will you please look at that paper, and see if that refreshes your memory any?

By Mr Kelley,-"Well we object to the witness refreshing his recollection from any ~~xx~~thing in the shape of a memorandum, unless it appears that the memorandum was made by himself".

A-Well this you might say was made by myself, for I paid the money

myself that is represented by this.

By Mr Southern,-

I50 Q-Who is that from? A-It is for money paid to Mr R. P. Hall.

I51 Q-Do you recognize that? A-Yes sir.

I52 Q-What is it? A-It is a receipt.

I53 Q-A receipt for what purpose? A-It is for money paid to Mr Williams for work done.

I54 Q-Work done where? A-Work done on the temple lot?.

I55 Q-Will now after reading that receipt you may state if you know anything about when that work was done? A-Well this is so aritty a that I really can't make it out. It seems to be 'ok don't it? I really can't tell for what that cost is,-but it seems to be 1528 or '8?.

I56 Q-Can't you make out the date? A-I cannot.

I57 Q-Do you know whose signature that is to that paper? A-R. P. Hallis.

I58 Q-Well do you know that is his signature? A-I only know it from the fact that I paid him the money, and he gave me the xxxxx receipt. I cannot say that I saw him write that receipt.

I59 Q-That is the way you know it? A-Yes sir.

I60 Q-You handed him the money, and in return he handed you that receipt? A-Yes sir.

I61 Q-And he handed it to you with that name to it? A-Yes sir.

By Mr Southern,-"Well I offer that receipt in evidence, for what it is worth".

The receipt under referred to, identified by the witness, is hereupon marked exhibit "143".

Counsel for the plaintiff objects to the receipt marked exhibit "143" being offered or received in evidence, on the ground that it is incompetent, irrelevant and immaterial, and there is no proof that the money which it purports to be a receipt for was expended on the temple lot, or the land in controversy.

I62 Q-Did you ever see the paper I now hand you? A-Yes sir.

I63 Q-What is that? A-That is the receipt of G.A. Nichols for the wire that is around the temple lot. That is the receipt for the wire that was around the temple lot I think. Yes sir, that is what it is. It is for the wire, locks, nipples and other things and material xxxxx that they furnished in fencing of the temple lot.

I64 Q-Whose signature is it that is affixed to that? A-G.N. Nichols.

By Mr Southern,-"We will also offer that in evidence".

The receipt identified by the witness as above described is marked exhibit "144".

I65 Q-What date is it that is affixed to it?

Counsel for the plaintiff objects to the question asked the witness on the ground that it does not call for the best evidence,-the paper itself being the best evidence.

I66 Q-Does that indicate to you anything with reference to the date of the transaction we were referring to here? A-Yes sir.

I67 Q-Well what does it indicate to you? A-September 20th 1928. That is the date.

I68 Q-Well what does it indicate? A-Well it indicates that that was about the date that I paid this money to-him. That is what it indicates to-me. I suppose that is the exact date that I paid the money to him,- I don't know anything to the contrary, and it would not be likely that it could be any other day.

I69 Q-I will offer that in evidence also.
Counsel for the plaintiff objects to the offer of evidence or proof on the ground that it is incompetent, irrelevant and immaterial.
I70 Q-Was that you have your mind refreshed by those [illegible], can you state about what time you had that work done? A-On the [illegible] lot?
I71 A-Yes, sir? A-Well it was during the summer of 1922.
I72 Q-Describe the work that you had done?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial.
A-[illegible] the lot with a [illegible] and fire, and plenties, and some [illegible] on it.
I74 Q-Upon [illegible] that work? A-Upon what was [illegible] on lot or ground. It was the same [illegible] to order [illegible] here.
I75 Q-[illegible] to the lots or ground it controversy [illegible]? A-[illegible].
I76 Q-[illegible] or did you go [illegible] out that [illegible]? A-For the church as I have before mentioned.
I77 Q-[illegible] in this order? A-Yes sir.
I78 Q-[illegible] that [illegible]? A-From the church.
Q-[illegible] in my hands at the time belonging to the church I think.
I79 Q-[illegible] copy of [illegible]? A-Well it came [illegible] truly [illegible] I think,-truly on [illegible]. It was [illegible] that [illegible] in different [illegible] to pay the expense of the church.
I80 Q-[illegible] truly [illegible] from [illegible]? A-Usually or generally? A-Well from [illegible]. At that time there was [illegible] hands that came from [illegible] that [illegible] the church to pay the [illegible] with [illegible].
I81 Q-[illegible] of that [illegible]? A-Well not [illegible] usually [illegible], or [illegible] all [illegible] the [illegible] and other [illegible] there [illegible] or [illegible] for that [illegible].
I82 Q-Do money that you used for paying [illegible] taxes - not money [illegible]? A-It was the [illegible] money,-the money [illegible] for paying the taxes, that [illegible] money [illegible] for [illegible] of [illegible].
I[illegible] used for paying the current [illegible] expenses of the church [illegible] they were, and this was one of the items of [illegible] that was to be paid out of [illegible]. I think perhaps that some of the [illegible] knew that I [illegible] with my own money, as the church account [illegible] for it afterwards.
I83 Q-You paid at first some of your own money, or which the church therefore account to you? A-Yes sir,-that I think was at the first,-I just paid out my own money, and took receipts for it, and then when I could [illegible] account to the church they could [illegible] me for it.
I84 Q-You mean they would repay you? A-Yes sir, that is what I [illegible].
I85 Q-Was any of this money paid in the interest of, or for the benefit of any other church or association other than that which made these improvements upon those lots?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent and immaterial.
A-[illegible] as [illegible] my account.

186 Q-Well then was it, or was it not, paid in the interest of the branch of the Church of Christ at Independence Missouri?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and leading.
A-Yes sir it was.
187 Q-That is all?
Cross examination by P. P. Kelley.-
188 Q-You say Mr Owens that you paid these taxes in the interest of the church of Christ? A-Yes sir.
189 Q-Well did you pay them all of them, in the interest of and for the church of Christ? A-Yes sir.
190 Q-Is that the defendant church in this case? A-Yes sir.
I so understand it to be.
191 Q-Well now what was the state in which that church was organized?
192 Q-Well when was it organized? A-Well my understanding is that it was organized on the 6th day of April 1830.
193 Q-At what place? A-Well I cannot say for I am not become so very well acquainted with all the facts connected with its organization further than they are recorded in history.
194 Q-Well do you know what state it was organized in? A-Well I understand that it was New York or Pennsylvania.-New York I believe was the first place where it was organized.
195 Q-By whom was it organized,-that is by what man,-if you know? A-By Joseph Smith,-he was the founder of the church and with him I understand were associated Oliver Cowdery and others.
196 Q-You do not know the names of the men who were associated with him? A-Well I understand there was five or six of them. They claimed to have perfected the organization of the church,- that is the original organization as I understand it from history.
197 Q-It is the same church then that is referred to in the deed from John H. Hedrick to Deanville Hedrick? A-I expect so.
198 Q-Well was it the church of Christ of Latter Day Saints? A-Now?
199 Q-Was it the same church, or is it the same church that is referred to in the deed from John H. Hedrick to Deanville Hedrick in the "Church of Christ of Latter Day Saints?" A-Yes sir.
200 Q-And the same church that you spoke of in your testimony in chief as being the "Hedrickite fraction of the Mormon church"? A-Yes sir. That is what people scoffingly call it, but we call it the "Church of Christ".
201 Q-And it is the same church who in 1830, or between 1830 and 1838,-moved its headquarters from Kirtland, Ohio, to Independence, Missouri? A-Yes sir, we think so.
202 Q-Well is it the same church, as the church that in 1830 or between that and 1838 moved its headquarters from Kirtland, Ohio to Independence, Missouri? A-Well we calculate it to be the same. We calculate it to be the same organization.
203 Q-And the same organization that afterwards went from Independence, Missouri, because of the persecution to which it was subjected up into Caldwell County, Missouri? A-Yes sir.
204 Q-And who were afterwards driven from Nauvoo,-from Caldwell County, Missouri to Hancock County, Illinois? A-Yes sir.
205 Q-It is the same church? A-Yes sir, that is about the way I figure it up.

206 Q-That is the way you figure it out? A-Yes sir.
207 Q-Well, what do you figure out? A-That it is the same church.
208 Q-Do you know whether,-do you know about the time that Greenville Hendricks united with the church that was formed in 1830(???)first? A-What is that?
209 Q-I mean, you do intend to ask you,if you know of your own knowledge about the time that Greenville Hendricks united with the church that was organized in 1830? A-No sir.
210 Q-You do not know of your own knowledge when he united with the church? A-No sir.
211 Q-Will you not know from memory, he told you,either by way of conversation,or not this,-that it conversation with him? A-Well I always understood him so to do. I will answer him to so.
212 Q-You understood him so to do? A-Yes sir.
213 Q-To do what? A-To be a member of the original church,-I never understood him to be anything else but a member of the original church always up to the time of his death.

214 Q-Now the party who claimed to be the xxxxxxxx first party to discover here,-what is known as the Hendricks faction of the church? A-Yes sir.
215 Q-And he was the treasurer also of that faction? A-Yes sir.
216 Q-For such property here? A-Yes sir.
217 Q-Was this Mr. Hendrick that you testified about here that xxxxxxxx represented his wife? A-Yes sir.
218 Q-Is he living now? A-Yes sir.
219 Q-And you obtained all these tax receipts and papers that you have been testifying about here,from the widow of Greenville Hendricks? A-Xxxxxxxx Yes sir.
220 Q-You did not? A-No sir.-not all of them.
221 Q-Did you not so testify on your direct examination? A-No sir.
222 Q-What do you say in that regard? A-I said I got some of them along with some other papers on occupancy from her,but I didn't say I got all of them.
224 Q-Well then I will qualify that question and ask you if you got such tax receipts as you and Mr. Hendricks said you paid yourself since the death of Greenville Hendricks? A-Yes sir,but I don't know that I got all of them. I can't say as to that but I can state that I got such as I state from her.
225 Q-Were you alone at the time that you got them papers? A-No sir. Mr Hill and I went together at the time I got the papers.
226 Q-When was the faction of the original church,as you call it,the Hendricks church or faction,- when was it organized as a faction? A-I don't know that it was ever organized as a faction. I rather inclined to the to the opinion that it was not,for I know that I always understood it to be a perpetuation of the original church,as it was organized in 1830. That is the way I always understood it to be,-the perpetuation or succession of the original church that was organized in 1830.
227 Q-How when did it have its organization as contradistinguished from the other factions? A-I don't understand what you mean?
228 Q-What I mean is when was it organized with reference to the faction led by Brigham Young,or the faction led by Strang,or the faction led by Flannen Bishop? A-I don't know sir.
229 Q-Was it not after the year 1860? A-After 1860?
230 Q-Yes sir? A-I don't know what you mean by" organized" I will give you my knowledge of the history of it if you like.

231 Q-Well I will tell you what I am trying to get at Mr Owens. This is what I am trying to get at,-You recognize do you not that there was a disorganization of the church that was organized in 1830 along about 1844? A-Yes sir I do now.

232 Q-You understand that there was a disorganization of that organization effected on the 6th day of April 1830 about 1844? A-Yes xxxx when you call ,my attention I do remember hearing that there was such a thing,and that the church split or was cut up into different factions,and adopted different doctrines in this and that regard I heard and have read that was the fact.

By the court,-"I object to all your questions on this line of examination on the ground that they are immaterial and because the witness is not qualified or his own records, and therefore the testimony is hearsay,and the witness has not shown himself to be xxxxxxxx qualified to speak as an expert on the history of the church,and excludes the questions are instanter.

By Judge Lee,-

233 Q-I call your attention Mr Owens to that date,simply to give the date in your mind that it all? A-All I know is hearing that that is the fact.

234 Q-Now with reference to the time of the disorganization,with reference to the time of the death of Joseph Smith,-when was it after the death of Joseph Smith that the faction of the church that is known as the "Rigdon" faction" was organized with officers of its kind?

By Mr Scofield,-

235 Q-Just state what you know Mr Owens,and not in, also?

By Mr Kelley,-

236 Q-That is right. I don't want Mr Owens or any body else to state anything only what they know. That is all I want and all I expect. Now Mr Owens,do if I venture anything, also I think I have the wrong man on the witness stand to get it from? A-Well I don't know anything about that. I don't know that there was ever an organization such as you speak of effected at any time. Understand that at that time I was not a member of the church,for I joined it in 1864, but I was some what acquainted with the history of the church before that time from what I heard from people who were acquainted with the church before that time,-who had belonged to the church in other places.

237 Q-You did not join the church prior to 1864? A-No sir,but my father was a member of the church before that time,-he was a member of the church for years before I was born I suppose. Now I have been trying to get at the answer that I believed you wanted,and I will state further that in 1855 my father and Granville Hedrick, and some other men that I have been acquainted with since began to associate themselves together in prayer meetings and in other ways ,and they looked over these things,and offered among themselves and to others whom they met,their objections to the way different men who claimed to be the head of the church,were trying to build up the cause

238 Q-Well was that the organization you referred to? A-Well you can call that an organization or what you please. I don't know what you would call that.-

239 Q-Do you know anything prior to that time that occurred,more definitely then that? A-No sir I don't know of anything more definite

that that that ~~xxxxxx~~ occured prior to that,and I can't say that I know that absolutely of my own knowledge,but that is the way I understood the matter took form.

240 Q-That was the first you knew about it? A-Yes sir, that was the first,and I will say that I don't know of anything that took place that at an earlier date than that,or at a more recent date either,-that was the first and the last I know of it.

241 Q-Who belonged to the church when you joined it in 1844? A-I think there was several.

242 Q-Well who were they? A-I could name several but I will not name them all.

243 Q-Will give me the names of the ones you were known as the leading men in the church? A-Well there was my father,I think of course,perhaps he either one of the leading men in the church. For he was an elder,and there was Hitrick,and there was Dr Miles Reynolds, and there was Gillian Owens.-

244 Q-Is that all you can mention? A-No sir,I think not. I think I can name others. There was Gideon Bacon, Gideon Bacon,-there was Halloran,-A. J. Halloran,and I think John W. Sharpe were,and perhaps others. Perhaps some others. No I have not mention-ed-for I cannot remember all of them.

245 Q-There was the leading men in the church at the time you joined it? A-Yes sir there were the names of one or two,-I can't remember all of their names, but the names I have given you were some of them.

246 Q-Was your father named William Owens? A-No sir,-it was Jedidiah Owens.

247 Q-Was he the party that went with Granville Hedrick to Wisconsin about 1857 to attend the conference A-I don't know,-what conference?

248 Q-A conference of the reorganized church? A-I don't know.

249 Q-You do not know whether were found were in the re-or not at that time? A-No sir,-I don't know anything about that at all. We may have done so for all that I know to the contrary.

250 Q-What relation was William Owens to you? A-I don't know of any William Owens to my knowledge. There was no William Owens certain my acquaintance that ever belonged to the church,or whoever belonged to my family,-relate in any way that I know of.

251 Q-Well that I understand you to say that the other parties whom you have named were members of the church at the time you joined it in 1844? A-Yes sir

252 Q-Where was that? A-That I joined the church?

253 Q-Yes sir? A-It was in Livingstone county.

254 Q-Illinois? A-Yes sir.

255 Q-Is that the county-that Bloomington is in? A-No sir,Bloomington is in McLean county. I lived more near in Fulton county at one time.

256 Q-Who was the trustee of the church at the time you joined it? A-I do not know that there was any.

257 Q-Well what is your best impression about that? A-I don't think there was any at that time.

258 Q-You do not think there was any? A-No sir,not by the official action of the church.

259 Q-Who was the President of the church at the time you joined it,if-any body? A-I recognized Granville Hedrick as the President.

260 Q-Was he recognized as the President of the church in 1844? A- Yes sir.

261 Q-When was he elected? A-How is that?

262 Q-How and when was he elected? A-I don't know. I cannot tell you anything about that, only from what I have heard.

263 Q-Are you the Secretary now, of what is known as the Church of Christ Christ here at Independence? A-Yes sir.

264 Q-Did you ever see any of the records of that organization in your hands as Secretary? A-Yes sir.

265 Q-You have? A-Yes sir, I have kept the minutes.

266 Q-Can you state from your knowledge of those records that you refer to, when, at one time, in your possession, when he was elected President? A-Graville Hedrick?

267 Q-Yes sir,-when he was elected President? A-No sir.

268 Q-About that time I ask, for I don't ask you exactly, within six months or years, but I want to know about the year? A-I can't tell the year definitely.

269 Q-All your best recollection is that I want ~~[illegible]~~ on that date? A-I can only state about it from what I have heard. I don't know for I was not at the meeting at which he was made President, and of course I cannot tell.

270 Q-What is that you said? A-I said I did not know, for at the time he was made President I was not xxxx on the ground.

271 Q-Will you tell about what time it was,-about what year,-if you know you may state it? A-Well it was some time prior to '64. I can't give the year, but it was some time prior to that date.

272 Q-Well was it prior to 1860? A-I could not say.

273 Q-Well which is your best recollection as to that? A-I don't know.

274 Q-Do you know who ordained him President of the Church? A-No sir. I was not present, and I don't xx know a thing about it.

275 Q-Are you a member of what is known as the "Hedrick-ite branch" of the church? A-Yes sir.

276 Q-You are a member of that branch? A-Yes sir, I expect so. I do not know anything to the contrary.

277 Q-And for a number of years you have been a member of that church? A-Yes, sir.

278 Q-When I said "church" I meant the church that is made up of the attendants in this suit? A-Yes sir, I am a member.

279 Q-And you are one of the parties defendant in this suit are you? A-Yes sir. Yes sir I xx understand that I am so far as my interest in the title to this ground in question is concerned.

280 Q-Are you a member of this branch here at Independence? A-Yes sir I think that my boundaries would be found within the limits of this branch, but according to the strict construction of the matter I might be located inside the limits of this boundary,-that is the boundaries of this branch.

281 Q-Then there is a limit in the boundary outside of which a person cannot be a member of a branch, if they are located beyond a certain distance? A-Yes sir-I so understand it.

282 Q-And if you are a member of this branch, you are so by reason of a special rule made by this church here at Independence? A-Yes sir.

283 Q-The rule limits the membership to persons who live within a radius of three or five miles does it not? A-I don't know exactly what it is now but it was ten miles originally.

285 Q-Is not the radius now five miles? A-I could not say.

286 Q-You do not know what it is now? A-No sir,not positively.

287 Q-For how many years were you acting as the trustee for the Hedrickite faction here? A-I don't know. I don't know that I ever was a trustee.

288 Q-Well as the agent then? A-Well I was the agent and clerk for several years.

289 Q-For how many years? A-Well for several,-I don't know how many years. I don't know just how many it was.

290 Q-[illegible] the trustee when you were the agent,-if you [illegible]? A-I don't think,-Granville Morris, Hugh Judy and Richard Hill were all of them at one time, [illegible] as the presiding authority. I [illegible] at various times they were [illegible] the [illegible] authority [illegible] active at present.

291 Q-[illegible] "trustee" or trust for your property, [illegible] you do not all hold that office [illegible]? A-[illegible]

292 Q-[illegible] you have been [illegible] of? A-[illegible] that is the way I have [illegible].

293 Q-[illegible] all of these things [illegible] you have [illegible] Kansas [illegible]? A-Yes sir,I think [illegible] clerk or [illegible].

294 Q-[illegible] or clerk [illegible] the property of the organization [illegible] [illegible] the [illegible] organization [illegible]? A-I do not understand [illegible].

295 Q-I [illegible] to [illegible] is not a fact that you are [illegible] the [illegible] I have [illegible] on the theory that you [illegible] organization [illegible] [illegible] organization,-that is [illegible] [illegible].

296 Q-[illegible] of the [illegible] is too [illegible] [illegible] you [illegible]? A-[illegible].

297 Q-[illegible] are there [illegible] [illegible]? A-[illegible].

298 Q-[illegible] you live? A-[illegible] [illegible] [illegible]? I don't [illegible] understand the question?

299 Q-[illegible] members of the church [illegible] your [illegible], live in the [illegible] where you live? A-I don't [illegible] [illegible],-not in my immediate neighborhood.

300 Q-[illegible] if you do not believe [illegible] the [illegible], you do not believe, so far as [illegible] [illegible]? A-[illegible].

301 Q-[illegible] enough as what is called a "[illegible]" member? A-[illegible] I expect so.

302 Q-[illegible] not belonging to the church? A-[illegible] I have [illegible] myself, considering my church privileges, [illegible] coming to the Independence branch. There has never been any other branch organized here or in this vicinity to which I could join.

303 Q-In church meetings you would not have the right to vote the same as members would,would you? A-Perhaps not under a strict construction of the law-that is not pertaining to local matters,-pertaining to local interests.

821 Q-Don't some of these tax receipts show that the money was paid to you as trustee? A-Yes sir I think there is one in there that reads that way.

822 Q-Well, if you recall that,-what do you say to the fact-I think there is one in there that reads that way, but then, in the interest of the clerk, for I want it to make the clerk's work out a receipt for it [illegible] I also let my [illegible] in [illegible] my own [illegible],-I tell [illegible] to write [illegible] and he mentioned [illegible] in it as trustee.

823 Q-Do people pay [illegible] money? A-Most is only the [illegible] but [illegible] I have it [illegible] of the [illegible] it.

824 Q-I notice here [illegible] that in exhibit 91, [illegible] in [illegible] "1/7", "1/8", "1/9" and "1/10", [illegible] receipt [illegible] it is not [illegible] it in [illegible] Q-[illegible] Do you [illegible] trustees? A-Yes sir I believe that [illegible] I [illegible] of the church, for I do not claim I [illegible] any position of [illegible] over [illegible] of it, but that [illegible] only [illegible] in [illegible] the [illegible] concerned,-that is all [illegible] it.

825 Q-And [illegible] "P.F", [illegible] T...92 A-[illegible] a member [illegible] to [illegible] collection [illegible] collection [illegible] right and not correct, but [illegible] it [illegible] to [illegible] 826 Q-[illegible] it [illegible] A-[illegible] ly [illegible] taken [illegible] by [illegible] 827 Q-[illegible] trustees are not correct? A-No sir not in the [illegible] I [illegible] any [illegible] 828 Q-[illegible] in [illegible] "trustee" [illegible] A-No sir. That is the way I under-stand it, that it is merely an error of the clerk who wrote out the receipt is concerned,-that is all [illegible] it.

829 Q-[illegible] but you were the party A-Yes sir, I was merely the agent or clerk of the church, [illegible] with the duty of performing this work, and the receipts were made to read that I was the agent in behalf of the church, and not in my individual capacity. I was merely connected with [illegible] to the church,-not as the trustee, but [illegible] the agent or clerk.

830 Q-Did you [illegible] Reunion city?

By Mr. Cantrell,-I object to. I think that this examination is out of order, and the time has come for me to object to it if I am to object at all. I object to this line of examination because you were have asked these questions before, or if you have not you stated that your cross examination was closed, and I have examined the witness in re-direct and did not bring out anything of that kind, and therefore you are not entitled to examine in rebuttal, therefore I object to this method of proceedure as irregular.

331 Q-When did Granville Harrison die? A-I do not remember the date of his death.

332 Q-Well if you do not remember the exact date give us about the time as near as you can when he died in Oregon? A-Well I think it was in "81. I have no date to go by, but I think it was then, if I am rightly informed.

333 Q-I ask you if his death took place at the same time as the death of your father, or immediately after, or before, or how long after? A-I do not know.

334 Q-Tell what you say about it now? A-Well I say that he died in Oregon at some time that was before his death, and I think that I know that it was three years before his death. I think

335 Q-I ask you if you do not know his death, but you believe? A-Well I believe the date of his death was

336 Q-Do you know? A-No.

337 Q-Was your father a member of the church? A-Yes.

338 Q-Was your mother? A-Yes.

339 Q-Was your sister? A-Yes.

340 Q-Was your brother? A-Yes.

341 Q-Was your brother Franklin? A-Yes.

342 Q-Was your brother Joseph? A-Yes.

343 Q-Was your brother Hyrum? A-Yes.

344 Q-Was your brother Alvin? A-Yes.

345 Q-Was your brother Samuel? A-Yes.

346 Q-Do you know that personally? A-Yes.

347 Q-Understood what? A-That he was a member of the Church of Christ.

It is in evidence to complete the series of depositions herein on this day, by agreement of the parties, the further taking of the same by the Notary Public continues until Monday, July Ninth Four, and the hour of 11 o'clock A.M.

Now on this day, the said being Monday July Ninth Four, at the hour of 11 o'clock A.M. come the parties hereto, as aforesaid, and the further taking of depositions herein was continued, pursuant to adjournment.

Richard Hill, resuming the witness stand, testified as follows, on cross examination,-

By Mr. Kelley,-

1 Q:-Before proceeding with the cross examination of Mr. Hill, I have a motion to make to the following effect, Plaintiff now moves the Court to exclude from the record all the tax receipts offered in evidence heretofore on behalf of the defendants, for the reason that they show on their face that the property which they purport to be the receipts for taxes paid thereon, was not liable to taxation, being church property.

2 Q:-Mr. Hill, where do you live? A:-In Independence.

3 Q:-In Independence, in Jackson County, Missouri? A:-Yes sir.

4 Q:-How long have you lived here? A:-Since the spring of '68.

5 Q:-Well how many years have you lived here in Independence, Missouri? A:-About twenty three years, I think, this month,-if I am not mistaken that is the length of time I have lived here.

6 Q:-What position do you hold in the defendants church? A:-In what?

7 Q:-In the defendant church? A:-In the Church of Christ?

8 Q:-Yes sir? A:-Elder.

10 Q:-Well what other position do you hold, if any? A:-I hold the office of bishop.

11 Q:-Well what other position, if any? A:-That is about all, I believe.

12 Q:-You are an elder and the bishop of the church? A:-Yes sir.

13 Q:-When were you ordained an elder? A:-If my memory serves me right it was,-I believe it was about 1870. I am not positive about that, but I think that was about the date.

14 Q:-In 1870 you were ordained an elder in the defendant church? A:-Yes sir, in the church I was.

15 Q:-When did you first become a member of the church? A:-In 1840.

16 Q:-That was when you joined the church? A:-Yes sir.

17 Q:-Where did you become a member of the church? A:-In England.

18 Q:-Who baptized you? A:-I think the man's name was Mitchell that baptized me, but I am not really sure about that, it was so long ago I can't remember his name positively.

19 Q:-Did you hold any office in that church? A:-In what church?

20 Q:-In the church that you first joined? A:-Yes sir.

21 Q:-What office did you hold? A:-The office of a priest.

22 Q:-The office of a priest you held in that church? A:-Yes sir.

23 Q:-Was it by ordination? A:-Yes sir.

24 Q:-Who ordained you to the office of a priest? A:-I believe that the man's name was,-let me see,-I believe the man's name was Broderick.

25 Q:-Did he ordain you in England or in this country? A:-In England.

26 Q:-When were you ordained a priest? A:-In '48 I believe.

27 Q:-About what time in the year? A:-In the latter part of the year I think it was. I am not telling any of these things positivvly, but as near as my memory will serve me.

28 Q:-Have you been baptized more than once? Come answer the question? A:-Well I don't know that it is necessary for me to answer that question. I don't think it makes any difference whether I have been baptized once or twenty times.

29 Q:-Well we think it is necessary, and we insist upon your answering it. Have you been baptized more than once? A:-Well I don't think it is necessary for me to answer that question,-I don't know that that is necessary at all.

By Mr.Southern,-"I object to the question because it is incompetent,and because it is immaterial,and irrelevant and not cross examination,-and is not in response to the examination in chief or any part of it.

By Mr.Kelley,-

30 Q:-Have you been baptized more than once? A:-I have answered the question.

31 Q:-No sir,you have not,and I insist upon the answer? A:-I have given you all the answer you will get.

32 Q:-Do you decline to answer the question? A:-Yes sir, I decline to answer it.

33 Q:-Why do you decline to answer it? A:-Because it has nothing to do with this case.

34 Q:-For what reason other than that do you decline to answer the question? A:-I decline to answer it because I think it is not important,and has not reference to the court,or to the case at all.

35 Q:-Is it not true that you never were baptized but the on ctimo? A:-I decline to answer that question.

36 Q:-Well I insist upon an answer.

Counsel for the defendants objects to the question asked the witness for the reasons above set forth.

37 Q:-Will you answer the question? I insist that you answer the question.

By Mr. Southern,-"I insist that it has nothing to do with this case,-that it is not pertinent to any of the issues in this case,and the witness declines to answer it. Now if you have anything to do with the witness just go ahead and do it."

By Mr.Kelley,-"Let the record show this,that withour waivin , our rights to have the question answered,I will not insist upon the question."

By Mr.Southern,-"I think it is wholly un-important in this case,and has no possible bearing on the case, nevertheless I will advise you Mr.Hill if you have no other reasons than what you have stated to answer the question, I don't see that it does any harm or cuts any figure one way or the other."

A:-Well I think best not to answer it.

By Mr.Kelley,-

37 Q:-Therefore you decline to answer it? A:-Yes sir.

38 Q:-When did you unite with the Hodrickite church? A:-There is no such a church.

39 Q:-Well when did you unite with the faction that is generally known as the "Hedrickite faction" of the church? A:-I don't know of any such a faction.

40 Q:-Well if you are bound to stand on technicalities, I will say the defendant church. When did you unite with the defendant church? A:-I don't know of any faction.

41 Q:-Well I asked you when you united with the defendant church in this case? A:-When did I unite? What has that to do with this case I would like to know?

By Mr. Southern,-

42 Q:-You can answer the question? Answer it? A:-When did I unite with it,-

~~XXXXX~~

By Mr.Kelley,-

43 Q:-Yes sir,when did you unite with it,and let the record show that counsel for the defendants one of whom is the witness,notifies witness when he can answer a question asked him?

By Mr. Southern,-"Don't let the record show any such a

thing,-I have no objection to the record showing the facts,but that is not a statement of what actually occurred. I told the witness to answer the question."
A:-It is not necessary for any one to tell me when to answer a question. I know when to answer questions without being told to do so.
By Mr.Southern.,"Mr.Notary let the record show just what the attorney,myself included,says,and on that I am willing to stand."
By the Notary,-"That is just what it shows,-what is said in the exact language,and credited to the party using it,whether it is attorney or witness."
By Mr.Southern.,-"Well that is satisfactory."
By Mr.Kelley,-
44 Q:-Well answer the question? A:-What is the question? I have forgotten it.
45 Q:-I asked you when you united with the defendant church in this case? A:-Well,-
By Mr.Southern,-"Now the attorney for the defendants objects to all this line of examination,because it is not cross examination,with reference to any matter brought out in the examination in chief,-as I only examined Mr. Hill with reference to these tax receipts,and nothing else,and I object to it further on the ground that it is wholly immaterial to any issue in this case. How you may answer the question Mr Hill.
A:-I consider that I became acquainted with this church that you call the defendant church,when I first joined the church in England in 1848.
By Mr.Kelley,-
46 Q:-That is the way you look at it? A:-Yes sir,that is the way I consider it ~~it~~,for I consider that it is the same church.
47 Q:-When did you unite with it? A:-In 1848.
48 Q:-With the defendant church? A:-Yes sir.
49 Q:-That is the time you united with it? A:-Yes sir.
50 Q:-Did you at any other time? A:-What is that?
51 Q:-Did you ever at any other time unite with the defendant church except at the time in 1848,as you have here-to-fore stated? A:-I can't say that I did.
52 Q:-Can you say that I did not? AX-:-No sir,I can't say that I did or did not,for I claim that the church that I am now associated with is a part and parcel of the church that I first associated myself with in 1848.
53 Q:-You claim that you are a member of the same church now that you associated yourself with,or joined in 1848? A:-Yes sir.
54 Q:-That is your claim? A:-Yes sir.
55 Q:-Were you not baptized into the defendant church after 1848? A:-I decline to answer.
56 Q:-For what reason do you decline to answer? A:-Because it did not have anything to do with the case at all.
57 Q:-That is your reason,and your only reason for declining to answer the question? A:-Yes sir,I don't consider that the fact of whether I was baptized or not baptized cuts any figure whatever.
58 Q:-You do? A:-Yes sir,I do,-it don't make any difference whether I was baptized once or a hundred times that I can see. Many people are baptized many times.
59 Have you been baptized into a church since the year 1848?

A:-No sir.
60 Q:-Did you say that you had not? A:-No sir,I have not.
51 Q:-Have you- not been baptized into a church since the year 1860? A:-Not that I remember of.
52 Q:-Well will you swear that you have not been A:-No sir,for I do not remember. I would not swear that I have not been. I am only testifying about these things to the best of my memory.
53 Q:-Who baptized you the last time you were baptized? A:-I decline to answer.
54 Q:-That is another of the questions that you decline to answer? A:-That is what I said.
55 Q:-For what reason do you decline to answer that question? A:-For the reason I stated before.
56 Q:-Well state your reason again? A:-Well for the reason that it has nothing to do with the case that I know of.
57 Q:-Well suppose it has something to do with the case that you don't know of,would you then decline to answer it? A:-Well I will not answer it.
58 Q:-You claim to be the trustee of the defendant church in this case,do you not? A:-Yes sir,I am.
59 Q:-And also claim to be a member of the defendant church? A:-Yes sir.
60 Q:-And an elder in the defendant church? A:-Yes sir.
61 Q:-And to hold this property in trust for the defendant church? A:-Yes sir.
62 Q:-And adversely to the plaintiff church? A:-Yes sir, it necessarily would be so,I reckon.
63 Q:-That is the way you claim to hold it? A:-Yes sir.
64 Q:-And that you never were a member of the plaintiff church? A:-Yes sir.
65 Q:-Do you mean that you never were a member of the plaintiff church? A:-Yes sir.
66 Q:-Who baptized you into the defendant church? A:-Into the church that is defendant?
67 Q:-Yes sir? A:-Well I am claiming that it is the church that I was baptized into at the start,-it is the same church,we claim,that was founded on the 6th of April 1830.
68 Q:-Who claims that it is the same church? A:-Well I for one claim it is the same church.
69 Q:-Who baptized you the second time into the defendant church? A:-I decline to answer.
70 Q:-Were you baptized after the year 1860 into the defendant church by any body? A:-I decline to answer the question.
71 Q:-Or were you baptized after the year 1860 into any other church? A:-I decline to answer.
72 Q:-And you decline to answer for the reason that you think it is not material to this case? A:-I do not conceive that it would be of any importance to the case at all,or cut any particular figure whatever.
73 Q:-When was the defendant church,of which you say you are a member,first organized? A:-As I understand it, it was in 1830.
74 Q:-By whom was it organized? A:-By Joseph Smith,Oliver Cowdery and a few others.
75 Q:-At what place?
A:-As I understand it,it was at some place in

New York State.

By Mr.Southern,-"The defendants' attorney desires to object here,to this line of examination being extended any farther than it has been,on the ground that it is not responsive to any testimony produced or given by this witness in his examination in chief,and because the plaintiffs have had a remedy,and a way to obtain this testimony by a proper examination of their own in chief."

By Mr.Kelley,-

76 Q:-You stated in your examination in chief that you had paid certain taxes on the property in controversy in this case? A:-Yes sir.

77 Q:-You paid them for the defendant church? A:-Yes sir.

78 Q:-The defendant church has a church organization? A:-Yes sir.

79 Q:-Now tell me when that church,-the defendant church I mean,-was first organized,and who the presiding officer was at the time it was first organized,and who the presiding officer was at the time of the payment of the taxes? A:-I believe that I was presiding myself at the time that a goodly portion of these taxes were paid. I think I was.

80 Q:-You were the presiding officer at the time the taxes were paid? A:-Yes sir,I think I was at the time that a goodly portion of them were paid.

81 Q:-Who was the presiding officer at the time that the church was first organized? A:-First organized,-did you say.

82 Q:-Yes sir? A:-I suppose Joseph Smith and Oliver Cowdery and others were the first officers.

83 Q:-Who was the first president of the defendant church? A:-Joseph Smith.

84 Q:-Well who succeeded Joseph Smith in the Presidency of the church? A:-The first Joseph Smith?

85 Q:-Yes sir,-Joseph the Seer? A:-I don't know that any body ever succeeded him. I don't know of any one who did.

86 Q:-Well who succeeded to the Presidency of the church after the death of Joseph Smith the Revelator,Prophet and Seer? A:-I don't know. I don't know of any one. There were several that claimed to succeed him but I don't believe that any one did succeed him.

87 Q:-How did you happen to be Presedent of the defendant church? A:-Well it was,-how didIhappen to be President of the church?

88 Q:-Yes sir. A::-Well I was made so by the church.

89 Q:-You were made President of the defendant church by the church? A:-Yes sir.

90 Q:-Were you the first President of the church after the death of Joseph Smith? A:-No sir.

91 Q:-Who was the President,-the first President after the death of Joseph Smith,-that is of the defendant church? A:-I believe Granville Hedrick was. He was made President.

92 Q:-When was he made President ,if you know? A;-I will only state as near as my memory serves me.

93 Q:-Well that is right,and that is all I expect you or any one else to do? A:-I think it was about 1868. I don't remember just the time,but it was somewhere near that time,or just about that time.

94 Q:-What office did he hold? A:-Office in the church?

95 Q:-Yes sir? A:-Before he was made president?

96 Q:-No,what office did he hold in the church when he was made President? A:-Elder.

97 Q:-He was an elder? A:-Yes sir.
98 Q:-Was he anything else? A:-Not that I know of. I don't remember whether he was or not.
99 Q:-Well he was made President by the defendant church? A:-Yes sir.
100 Q:-Was he made prophet,seer and revelator? A:-No sir, I don't think he was. I believe a man,- I believe he might be that,but I don't believe that man can make man a prophet,seer and revelator.
101 Q:-Well in the ordination of Granville Hedrick,was he not ordained to be a prophet,seer and revelator? A:-I can't say about that.
102 Q:-You do not know about that? A:-No sir. There might have been some such words used,but there was no understanding that the man who ordained him had any authority to ordain him a prophet,seer and revelator.
103 Q:-There was no authority to ordain him in that capacity? A:-Yes sir,he could be,but it could not be done by a man agency as I understand it. No man had any authority to ordain him in that way,although he might have used the words.
104 Q:-Did not Granville Hedrick,after his ordination,and while he was President of the church,publish the fact of his ordination,and state that he was ordained a prophet,seer and revelator? Did he not after his ordination so claim the fact to be? A:-No sir. He did not claim any such thing I believe,but others might have claimed it for him,but if they did I don't think he consented to any such a thing.
105 Q:-Well do you say he did not publish it? A:-I don't think he did.
106 Q:-Well do you say he did not? A:-No sir,I say I don't think he did. I am quite sure he did not,but others might have done it without his knowledge,for I believe he never authorized any one to make any such claim on his behalf. I don't think he ever consented to any such thing if it was done. Others may have done it,but he did not consent to it,and I do not by any means say it was not done.
107 Q:-Look at the pamphlet I now hand you and see if you can identify it? A:-Yes sir.
108 Q -You have seen that before? A:-Yes sir.
109 Q:-Who was the editor of that pamphlet? A:-I cannot just remember.
110 Q:-You don't know? A:-No sir,I don't just remember who had that in charge. I don't know really who was the editor of that. If I ever knew I have forgotten.
111 Q:-You took it during the time it was published? A:-Yes sir,I took it at different times of course,but I don't know that I took it all the way through.
112 Q:-You took it at times then and recognize the paper? A:-Yes sir,I recognize it.
113 Q:-Were the editors of this paper the heads of the defendants' church? A:-I believe they were.
114 Q:-Was Granville Hedrick one of the editors? A:-I thing it is very likely although I am not certain,for I was not close by them when that was done.

By Mr.Southern,-"Defendant- again objects to this line of testimonyfor the reason that the witness was put on the witness stand by the defendant for the purpose of identifying tax receipts,and that purpose only,and defendant makes this objection for the reason

that this line of cross examination is a most outrageous abuse of the privileges of cross examination."

By Mr. Kelley,-"Plaintiff insists upon their right to cross examine the witness in the manner they are doing for the reason that the witness was not confined to the identification of the tax receipts as asserted by counsel for the defendants,but on the contrary on his cross examination was allowed to testify for whom he paid the taxes,and plaintiff is now by this cross examination seeking to determine what church it was the witness paid the taxes for,as also to determine the credibility of the witness."

II5 Q:-Now I will ask you this question,-was Adna C. Haldeman a member of the defendant church? A:-I think so

II6 Q:-Well do you know whether he was or not? A:-I believe he was.

II7 Q:-I mean at the time that Granville Hedrick was the President? A:-I think he was. I am positive he was.

II8 Q:-And was he with Granville Hedrick at that time,one of the editors of the paper or publication I handed you,called the "Truth Teller"? A:-As I stated before he might have been,but I cannot be positive as to that.

II9 Q:-Well it is a fact is it not,and you know it to be a fact that Haldeman was one of the editors of the Truth Teller? A:-I say I am not positive whether he was or not. I don't just remember whether he was or not.

I20 Q:-Mark this exhibit "I06" and I will read from page thirty one of the pamphlet so marked,entitled the "Truth Teller" as follows,-

The Truth Teller
Will advocate the Primitive

Organization of the Church of Jesus
Christ of Latter Day Saints

which was organized on the 6th day of April 1830,and maintain her doctrines in all truth. Also an exposition of all the false doctrines that has been imposed upon the church.

Tell the truth,-
The truth will tell,-
And tell it well.
Truth will prevail,
And never fail.

Volume I.
Bloomington.
Published by the Church.
1864.

Now in this paper or pamphlet,marek exhibit "I06",on page thirty one,the first column,is this language,-"The awful scourge that awaits this nation,how,when and where you can flee to escape it,is plainly shown. Remember this, that these revelations were given through him whom the Church in General Conference selected by vote,and was ordained President,prophet,seer and revelatbr of the church by members of the quorum of Twelve. About 17 persons were present on these ever memorable occasions when the God of Israel,in answer to fasting and prayer,filled the house where they were assembled with his spirit,which made every soul present rejoice in the God of their salvation. Brethren it will never be forgotten by those who were thus favored with the privilege of being present when God again spoke to his church through the means he had ordained."

Do you remember reading that before?

that this line of cross examination is a most outrageous abuse of the privileges of cross examination."

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II7 Q:-I mean at the time that Granville Hedrick was the President? A:-I think he was. I am positive he was.

II8 Q:-And was he with Granville Hedrick at that time,one of the editors of the paper or publication I handed you,called the "Truth Teller"? A:-As I stated before he might have been,but I cannot be positive as to that.

II9 Q:-Well it is a fact is it not,and you know it to be a fact that Haldeman was one of the editors of the Truth Teller? A:-I say I am not positive whether he was or not. I don't just remember whether he was or not.

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Do you remember reading that before?

Counsel for the defendants objects to the question asked the witness on the ground that it is not proper cross examination, incompetent and immaterial.

121 Q:-Do you recognize that? A:-Yes sir, I do.

122 Q:-Was that true as to the ordination of Granville Hedrick?

Counsel for the defendants objects tot the question for the reasons above set forth.

123 Q:-Did that occur as to the ordination of Granville Hedrick? A:-I can't say. As I said before man did not have the power to ordain man to the office of prophet, seer and revelator.

124 Q:-Well did they in fact attempt it as is stated here? A:-I don't know for I was not there.

By Mr. Southern,-"Defendant makes the same objection with reference to this line of examination, on the ground that it is irrelevant and immaterial, and not proper cross examination, and objection is made to the introduction of the book marked exhibit "106" because it is not properly identified or shown to represent the defendant church, or any other church, and it is not claimed to be so shown, or to be an authority of the defendant church.."

By Mr. Kelley,-

125 Q:-Granville Hedrick, in 1884, the time that this transaction occurred as recited here in this pamphlet, was an elder of the church that was established in 1830, was he not? A:-Yes sir.

126 Q:-And he had been an elder for five or six years? A:-I expect so and as many more.

127 Q:-Well how long had he been an elder? A:-Well I think that he was an elder in the very first year or two of the church's existence. Say in '32 or '33,-I am not certain which, but I think that is the fact.

128 Q:-I will read now from the same exhibit "106" on the same page commencing at the last word in the first column at the bottom, as follows,-"Granville Hedrick, Washburn, Woodford County, has been an elder in the church for about twenty two or twenty four years?"

Counsel for the defendants objects to the question asked the witness on the grounds above set forth.

A:-Well I said I did not know I don't know how long he was an elder, for I was not there when he was baptized, and all I know about it is what I heard.

129 Q:-Then you say that statement is correct as you recollect it? A:-I don't know about that. I don't know a thing about it. I don't know whether it is true or not.

130 Q:-Well do you know whether Granville was an elder in the church for twenty two or twenty four years prior to 1864? A:-Well all that I know is that we held a personal talk about it, and he told me that he was an elder in the church in Joseph Smith's day, and as far as I recollect he stated that he was made an elder at an early date.

Counsel for the defendant objects to the answer of the witness, and moves the court to strike it out on the ground that it is hearsay.

131 Q:-Do you know who ordained him an elder? A:-No sir.

132 Q:-He did not tell you that then? A:-I don't remember whether he did or not.

133 Q:-How was it not W.O. Clark of California? A:-I don't know sir.

134 Q:-A member of the plaintiff church? A:-I don't know any such a name.

135 Q:-You do not know whether that was the man or not who

ordained him? A:-No sir.

I36 Q:-Now you say you were President of the defendant church at one time? A:-For a time I was.

I37 Q:-Who ordained you President of the defendant church at the time you held that office? A:-Well I can't remember who it was now. That is something that I do not call to mind.

I38 Q:-Well you were ordained were you not? A:-Yes sir.

I39 Q:-Where were you ordained? A:-At Independence, Missouri.

I40 Q:-You were ordained to the office of President of the defendants church here at Independence? A:-Yes sir.

I41 Q:-And you do not recollect who ordained you to that office? A:-No sir.

I42 Q:-Well was there any one ordained you to that office? A:-I expect there was. I expect they did.

I43 Q:-Can you name any body that took part in the ordination? A:-Well now I don't remember the names of the people that took part in it, and there is no use of your asking me anything more about it, for I have told you all I can about it.

I44 Q:-Has the defendant church a record of your ordination to the Presidency? A:-I expect they have.

I45 Q:-Who has the record? A:-I have.

I46 Q:-You have that record? A:-I have it under my control, but it belongs to the church.

I47 Q:-Did you ever read the record? A:-Well I expect I did. I can't say whether I did or not, but it is likely I did. I can't tell anything about it.

I48 Q:-Well have you read it? A:-I don't know that it is necessary forme to tell whether I have read it or not. It is under my control, and it is very likely that in laying around I may have read it, but whether I did or not is something I can't say now.

I49 Q:-Well what office or offices did the parties hold who ordained you to the Presidency? A:-I expect they were elders.

I50 Q:-Can you name any of them? A:-I have told you that I do not remember.

I51 Q:-Do you know that they were elders? A:-Yes sir.

I52 Q:-How many of them ordained you? A:-I don't remember how many there was took action in it. That is something I can't remember as I have told you time and again.

I53 Q:-What house was it at that you were ordained? A:-Well now I don't remember whether it was at my house or at some other brother's house. I can't remember as to that.

I54 Q:-You don't remember whether it was at your house, or at the house of some other brother that you were ordained President of the defendant church? A:-No sir, I do not remember that just now.

I55 Q:-How many were present at the time of your ordination? A:-I don't remember that.

I56 Q:-Can you name anybody else that was present except yourself? A:-Yes sir.

I57 Q:-Well who was it? A:-Well I think Mr. Frisbie was present.

I58 Q:-George Frisbie? A:-Yes sir, I think he was there.

I59 Q:-Did he take a part in the ordination? A:-I can't remember, as I told you before, the portion that took part in it. I can't remember and I don't think it is necessary to remember.

I60 Q:-How far back does this record go? A:-The record of the church?

I61 Q:-Yes sir? A:-I do not remember? It is away back thou

to somewhere in the fifties,=I don't remember though how far back it is.

I62 Q:-You do not- remember either how far back that church record goes that you refer to? A:-No sir.

I63 Q:-Nothing further than that it is to somewhere in the fifties? A:-Yes sir,somewhere about '50 I think. I don't remember that positively either,but it is somewhere along about that time,I think.

I64 Q:-Does the record show who was the President of the church,-the first one? A:-I think it does.

I65 Q:-Who was it? A:-I believe it shows who it was.

I66 Q:-Well who was it? A:-I believe it was Granville Hedrick.

I67 Q:-Who succeeded him? A:-A man by the name of Judy.

I68 Q:-John Judy? A:-No sir.

I69 Q:-Well what was his name? A:-David Judy.

I70 Q:-David Judy succeeded Granville Hedrick as President of the church? A:-Yes sir.

I71 Q:-How long was he the President of the church? A:-I don't know,but I think it was something like three or four years.

I72 Q:-Who succeeded him? A:-I did.

I73 Q:-Who succeeded you? A:-There is no one succeeded me yet.

I74 Q:-Then you hold the Presidency of the defendant church yet? A:-No sir,I don't hold the Presidency yet.

I75 Q:-Well who is the President of the defendant church now? A:-At the present day?

I76 Q:-Yes sir. A:-Mr.C.A.Hall.

I77 Q:-That is the defendant C.A.Hall in this case? A:-Yes sir.

I79 Q:-Was he ordained President? A:-Yes sir.

I80 Q:-Who ordained him? A:-I don't know who they all were sir.

I81 Q:-Do you know any of the parties who took a part in ordaining him? A:-I believe I was one of them.

I82 Q:-And who assisted you? A:-I believe it was George Cole.

I83 Q:-George Cole? A:-Yes sir,-G.D.Cole.

I84 Q:-Was there any one else participated? A:-Yes sir.

I85 Q:-Well who were they? A:-I don't remember who else or other parties were.

I86 Q:-What office did you hold when? A:-An elder.

I87 Q:-What office did Cole hold? A:-Elder.

I88 Q:-When did it take place? A:-When did want take place?

I89 Q:-When did the ordination of C.A.Hall as President of the church take place? A:-I don't remember exactly but it was three or four years ago,or something like that. I can't tell you just when it was,for I have no memorandum with me with which to refresh my recollection.

I90 Q:-Do you remember the Charles A.Hall who was formerly a member of the plaintiff church? A:-I don't remember or know anything about the members of the plaintiff church. I don't know who were the members of the plaintiff church.

I91 Q:-Don't you know whether he was or was not formerly a member of the re-organized church or not? A:-No sir,I don't know any such a thing.

I93 Q:-Do you say that he was not a member of the re-organized church at any time? A:-He might have been for anything I know to the contrary.

194 Q:-Did he claim to be a member,-to be an elder when he came to you? A:-Not that I know of.
195 Q:-Was he ever baptized into the defendant church? A:-Not that I know of.
196 Q:-He was never baptized that you know of into the defendant church? A:-I was not there to see whether he was baptized or not. I understood he was baptized into the Church of Christ some time ago, of which he both claims to be member.
197 Q:-But you did not see him baptized? A:-No sir.
198 Q:-Therefore you don't know whether he was or not? A:-No sir.
199 Q:-Now is it not a fact that he was baptized the only time he ever was baptized for anything by an elder of the re-organized church? A:-I don't know sir.
200 Q:-Well will you swear that he was not?? A:-How could I swear that he was not when I don't know.
201 Q:-When I say the "re-organized church" I mean the plaintiff in this case? A:-Yes sir, I understand.
202 Q:-Well will you swear that the,-will you swear that it is not a fact that the only baptism he ever received was at the hands of an elder in the plaintiff church? A:-I have stated that I did not know whether it was or not. How can I swear to something that I don't know, and I will tell you that you are not going to get me to swear to something that I don't know anything at all about.
203 Q:-You stated that those tenon that you testified to as having paid, you stated that you paid that for the defendant church? A:-Yes sir.
204 Q:-Who composed that church? A:-Who composed it?
205 Q:-Yes sir, state who composed the church,-the defendant church? A:-I don't know that, I understand what you mean?
206 Q:-Well I asked you to state who were the members of the defendant church,-who composed it in other words? A:-Well that is something I could not do. I couldn't name all the names.
207 Q:-Well name all you can? A:-Well there is myself and George Frisbie and his wife, and my wife, and Daniel Forder and his wife, and James Hedrick,-is it necessary that I should tax my mind with trying to remember the names of all the members of this church. I would like to know if it is necessary that I should do that.
208 Q:-Yes sir,-all that you can recollect? A:-Well I will say that I can't recollect any more just now.
209 Q:-Do you say that you cannot recollect any more? A:-Now now,-not right off at the present time. Of course if I could and would tax my memory, I could remember them, but I can't say that I remember any more at the present time, but I could state more if I could remember them, for there is no manner of doubt but that we have a good many more than that in our church.
210 Q:-Are you present here for answering such questions as you see fit to answer? A:-What is that?
211 Q:-Are you present here as a witness to answer only such questions as you see fit to answer,-just to answer such questions as to you seems necessary to answer? A:-I don't so understand it, but I don't see any necessity for answering these questions.
212 Q:-Why do you say you cannot see any necessity for answering this question?
A:-Well because my memory don't bring it all back to me at once in a way so that I can state it. I can't

remember all in a moment the names of all the members of the church,and I don't think I should be expected to remember them,for it is almost an impossibility to do so,even for a person with the best memory. That is the reason I don't see the necessity of requiring me to answer these questions all off-hand,for I can't do it,and anyway it is my opinion that they have nothing to do with this case,but that is not the reason that I don't answer the question,-I have answered it as well as I could,but I can't remember all their names all at once.

213 Q:-Well these names you have given are the only names of members of the defendant church that you can remember? A:-Well C.A.Hall and his wife are two others. There is several children of his and several children of Frisbey's that are also members of the church,and there are others besides these.

214 Q:-How many members are there in the defendant church at the present time? A:-How many belong to the church?

215 Q:-Yes sir? A:-Well at the present time there is perhaps fifty or sixty,-perhaps somewhere between fifty and sixty.

216 Q:-Well are you willing to swear that there is that many? A:-Well I think I could swear that there is that many. Well now I don't know either that I could swear that there was that many,but still in swearing positively one would make a difference,-I believe there is about that many,-possibly there is more than that,but still I could not swear positively,for I don't know just how many members there is in the church. Allow me to say that ~~XXXXX~~ between fifty and sixty is as near as I can remember.

217 Q:-Is there any others that belong to this branch here,except those you have mentioned? A:-Do you mean any other members of the church?

218 Q:-Yes sir? A:-That belong to this branch?

219 Q:-Yes sir,any other members other than these you have mentioned that belong to this branch here? A:-Yes sir.

220 Q:-Well name all of the members that belong to this church or branch here? A:-Well I think the names I have mentioned is the most of them that belong to the branch here,if you include the children I have mentioned in the Hall and Frisbie families. All these families belong to the church.

221 Q:-IS Mrs.Granville Hedrick a member? A:-She is of the church,but not of the branch.

222 Q:-Is she a member of the church? A:-Yes sir,that is what I stated.

223 Q:-You swear to that,do you? A:-No sir,I think I am mistaken. I think she has been disfellowshipped from the ~~XXXXX~~ church.

224 Q:-She was the wife,and is now the widow of Granville Hedrick the President of the church during his life time? A:-Yes sir.

225 Q:-What was she disfellowshipped for? A:-Well now, maybe I might answer that question by asking you one. What were you disfellowshipped from the church for? Maybe you might be able to give me some information on that point?

226 Q:-Well sir,I belong to the great big church where they don't disfellowship people,and from which you cannot be disfellowshipped. They don't disfellowship any person unless they send them to the penitentiary? A:-Well I am glad to know it sir. You want to know what we disfellowship members for,and I will tell you what it is done for. We disfellowship members for improper conduct,-for unchristian conduct.

227 Q:-Was not Mrs.Hedrick disfellowshipped because she would not consent to the mortgaging ~~XXX~~ of the property in controversy in this case,and for no other reason? A:-I don't know that is the reason.
228 Q:-Do you say that is not the reason? A:-I don't know that it is. I am not aware that that was the reason.
229 Q:-Will you swear that is not the reason? A:-I don't know anything at all about that reason. I don't know of any such a reason at all,but I would be willing to swear that it was not for that reason.
230 Q:-Well was there not a man by the name of Franklin bolonged to your church at one time with his wife? A:-Yes sir.
231 Q:-Are they members now? A:-No sir.
232 Q:-What became of them? A:-They were disfellowshipped.
233 Q:-What were they disfellowshipped for? A:-For unchristian conduct,sir.
234 Q:-What did this unchristian conduct consist of? A:-I dont know that I shall state that.,-
235 Q:-You say that they were disfranchised or disfellowshipped for unchristian conduct? A:-Yes sir.
236 Q:-And you decline to state what the reason,-that this unchristian conduct consisted of? A:-Yes sir,-that is something which has nothing to do with this case.--

By Mr.Southern,-"That is very objectionable,-to go into the private history of the management of this church is very objectionable,and there is no issue in this case under which it could by any possibility become material."

By Mr.Kelley,-
237 Q:-Were not Mr. Franklin and his wife disfellowshipped because they would not dress in a particular uniform?

By Mr.Southern,-"I object to that also on behalf of the defendants,for the reasons heretofore given,and because it is a most outrageous and flagrant abuse of cross examination."

A:-I stated that it was for unchristian conduct that they were disfellowshipped.

By Mr.Kelley,-
238 Q:-This money that you paid taxes with-where did you obtain it? A:-I decline to answer that question sir.
239 Q:-Was it paid out of the church funds? A:-Yes sir.
240 Q:-Who contributed it? A:-That I decline to answer.

By Mr.Southern,-
241 Q:-You can answer that question as near as you can. Just state it as nearly as you know? A:-The funds came into my hands from different members of the church at different times and in different amounts, and so far as to state just what particular money I got from this one or that one it is utterly impossible for me to do so.

By Mr.Kelley,-
242 Q:-Well I did not ask you that. I suppose the proper answer to the question would be"I don't know,but it was paid to me by different members of the church?" A:-Well that is my answer.
243 Q:-Did Franklin and his wife contribute anything? A:-Not that I know of.
244 Q:-Are you prepared to swear that they did not? A:-Well I could swear to the best of my knowledge and belief that they did not.
245 Q:-You don't know that they did? A:-I don't remember of their ever putting in anything.

246 Q:-Now you say that this money with which you paid the taxes that you paid was contributed by different members of the church? A:-Yes sir.
247 Q:-Well did Mrs. Granville Hedrick contribute? A:-No sir,-not that I know of.
248 Q:-If she contributed anything you don't know it? A:-No sir.
249 Q:-Well do you swear that she did not contribute? A:-Well I would be willing to swear that she did not contribute,not to my knowledge,for I never knew her to contribute anything.
250 Q:-Did Mr. or Mrs. Baldeman contribute anything toward that fund? A:-Not that I know of.
By Mr.Southern,-"Enter the same objection to these questions as to the others."
251 Q:-XXX
By Mr.Kelley,-
351 Q:-Mrs. Baldeman and all her family have been disfollowshipped,have they not? A:-Yes sir,I think all of them but one.
252 Q:-Mr Solo and his family have been disfellowshipped also have they not? A:-Well so so hold. Well now I don't know that name,but there is a man by the name of Soly.
253 Q:-S o l a,-is that the way it is spelled? A:-No sir, it is not spelled that way,-there is a "C" in it.
254 Q:-Is it spelled S c o c l y? A:-Well yes sir,I think that is pretty near it anyway,-if it is not spelled that way,that is something, pretty near it at any rate.
255 Q:-Well did they contribute anything towards the church funds? A:-No sir.
Counsel for the defendants objects to this line of examination as to who contributed to the funds of the church on the ground that it is not proper cross examination,and is incompetent and irrelevant.
256 Q:-They did not contribute anything to the funds of the church for the payment of these expenses? A:-No sir,not to my knowledge.
257 Q:-Do you know a gentleman by the name of White down at Richmond,Missouri? A:-That is that?
258 Q:-Do you know a gentleman by the name of White down at Richmond,Missouri. A:-White?
259 Q:-Yes sir,-he is a gentleman who was a high priest at one time? A:-No sir.
260 Q:-You don't know anything about him? A:-No sir. I don't remember that name.
261 Q:-He used to live here,but now lives down at Richmond? A:-I don't remember that name at all.
262 Q:-Did you have a member of your church or janization here at any time by the name of White? A:-White?
263 Q:-Yes sir,that is what I said? A:-I don't remember that name at all. No sir,I haven't now any recollection of that name.
264 Q:-Who was,-you had a member in your church here who was an elder in your church and lived down in Richmond,did you not? He is the one that gave up his license in your church at your conference here one time? A:-Perhaps so.
265 Q:-What was that man's name?
Counsel for the defendants objects to the question asked the witness for the reasons above set forth.
A:-That I can't remember. I don't remember any one's name at all who was a member of the church by the name of White. I can't remember any such a person.
266 Q:-Well perhaps his name was not White,but he is the

man who gave up his license because he had been prohibited from preaching, that Joseph Smith was the prophet,seer and revelator of the church?

Counsel for the defendants objects to the question asked the witness on the ground that it is irrelevant and immaterial,and not cross examination.

A:-I can;t answer such questions positively,because I don't know how it is,but there might have been such things done.

267 Q:-What other officers do you have in your church besides elders? A:-In our church?

268 Q:-Yes sir,-in the defendant church? A:-We have the offices of priest and teacher.

269 Q:-Is that all? A:-And high priest.

270 Q:-Well is that all? A:,--Yes sir.

271 Q:-Have you any deacons? A:-Yes sir,I believe we have deacons.

272 Q:-Then you have high priests,priests,elders and deacons? A:-Yes sir,and teachers.

273 Q:-Teachers and deacons? A:-Yes sir.

274 Q:-Any others? A:-No sir.

275 Q:-Then you don't have any bishops? A:-Well if you call that another office,-if you call that a different office, of course we have. We have the office of bishop,-I thought you understood that before.

276 Q:-You have a bishop? A:-Certainly.

276 Q:-Also a President? A:-Yes sir.

277 Q:-Is the President the prophet,seer and revelator? A:-No sir.

278 Q:-You do not claim any such power then for your president? A:-No sir.

279 Q:-Who ordains the president? A:-How is that?

280 Q:-Who ordains the president of your church? A:-I have told you.

Counsel for the defendant: objects to the question asked the witness "because it has not been shown that anybody ordained the president,and also on the ground of the former objections."

281 Q:-Answer the question? A:-What is it?

282 Q:-Who ordains the president of the church? A:-I believe he was made president by a vote,-by the consent of the church.

283 Q:-By common consent? A:-Yes sir,as near as I can re-member.

284 Q:-Well is the president ordained,and if so by whom? A:-I don't remember anything about it.

285 Q:-You don't remember of any ordination? A:-No sir,I don't remember anything about his being ordained.

286 Q:-That is Mr.C.A.Fall,the present president? A:-Yes sir.

287 Q:-Well do you say he was not ordained? A:-I don't think he was. I can't remember.

288 Q:-He was just elected by a vote of the body? A:-I think so. I think that was the way it was done.

289 Q:-How many members,-how many elders did you have in the church? A:-Do you mean with reference to the church here,-with reference to the local church here in Independence?

290 Q:-In the whole of the defendant church,how many elders have you? A:-I don't know.

291 Q:-About how many? A:-I don't know. Some five or six or seven. Something like that.

292 Q:-And that is some five or six or seven? A:-Yes sir, but I can't say positively,for I don't remember just at the spur of the moment.

293 Q:-How many high priests have you?

A:-I can't say for certain but

there is some four or five.

294 Q:-There is some four or five high priests you say in the defendant church? A:-Yes sir,-something like that

295 Q:-Who are the high priests? A:-I am one.

296 Q:-Who are the others? A:-Cole is another.

297 Q:-What are his initials? A:-G.D.Cole,-he is another.

298 Q:-G.D.Cole is another? A:-G.D.Cole.

299 Q:-Who else,-who is another high priest? A:-G.P. Frisbie is another.

300 Q:-Who is the other one? A:-G.A.Hall is one.

301 Q:-Is that all of them? A:-I can't re-member any more just now.

302 Q:-Well now you have elders in your church you said? A:-Certainly.

303 Q:-Well who are your elders? A:-I believe all those I have mentioned are also elders. The ones I have mentioned as high priests are also elders.

304 Q:-Who also are elders besides the ones you have named? A:-I can't remember just who they are. Yes, James Hedrick is one of them. I can't remember all of them just now.

305 Q:-Then the high priests and elders are the same ones besides Hedrick who is ~~not~~ an elder but is not an high priest? A:-Yes sir,he is an elder,but not an high priest? ~~A:-Yes sir,he is an elder.~~

306 Q:-Then altogether you have five officers? A:-Yes sir. You can count them up and see. You have been putting them down and can see how many there is.

307 Q:-Do you recollect David Frampton? A:-Yes sir. I recollect that name.

308 Q:-Now don't you recollect that he is one who de-livered up his license to your conference,-don't you recollect that he is the man who did that? A:-Yes sir.

309 Q:-You recollect that? A:-Yes sir,I believe he did.

310 Q:-Do you know why he XXXXX did that? A:-No sir.

311 Q:-Did he not state why he did it at the time he delivered it up? A:-I don't recollect that he did.

312 Q:-Did he not state at the time he delivered up his license,that the reason he delivered it up,was because he was preaching that Joseph Smith the seer was a prophet,seer and revelator? A:-No sir,I don't so understand it.

313 Q:-Do you say he did not so state,and his license was delivered up for that reason. A:-[illegible]

314 Q:-You swear positively that it was not for that reason that he delivered up his license? A:-No sir,I don't say ~~XXXXXXXXXX~~ any such a thing. I say I don't recollect what his reasons were for doing what he did.

315 Q:-Is it not true that the elders in the defendant church are prohibited from preaching and teaching that Joseph Smith the seer was a prophet,seer and revelator? A:-No sir,not to my knowledge. I don't know of any such a prohibition.

316 Q:-Does the church believe he was a prophet,seer and revelator,and so teach? A:-Do you mean old Joseph Smith?

317 Q:-Yes sir? A:-Yes sir.

318 Q:-Now who were,-now do you remember a man by the name of Martin that belonged to the church? A:-Mar tin?

319 Q:-Yes sir? A man by the name of Martin? A:-Yes sir, at one time I recollect the name,and recollect at one time a man by that name that belonged

to the church.
320 Q:-Was he an-high priest? A:-Yes sir.
321 Q:-And also an elder? A:-Yes sir.
322 Q:-Was he dis-followshipped? A:-Yes sir.
323 Q:-What for? A:-What has that to do with this case I would like to know?
324 Q:-Answer the question,-what was he disfellowshipped for? A:-For unchristian conduct.
325 Q:-Did not this unchristian conduct for which these parties were dis-fellowshipped,consist,-and especially in the case of the Valdemans and Mrs. Hedrick,-did it not principally consist in their refusal to consent to the mortgaging of what was known as the temple property to certain parties in Salt Lake, to raise funds?
By Mr.Southern,-"Hold on,-dont answer that question till I object. That is objected because it is an abuse of the most flagrant character of the privilege of cross examination,and because it is in no conceivable manner material to the question at issue in this case."
By Mr.Kelley,-
326 Q:-Is that not true? A:-What is not true?
327 Q:-Is not the unchristian conduct for which these parties were disfellowshipped,-did it not consist in their refusal to permit the mortgaging of this temple property to parties in Salt Lake to raise funds for the purpose of defending this suit,and other purposes? A:-No sir,it is not true.
328 Q:-You swear it is not true? A:-No sir,-not that I know of.
329 Q:-Did not the parties so claim in the meeting,-at your own meeting on the temple property,at the time they were disfellowshipped or before?
Counsel for the defendants objects to the question for the reasons above set forth.
A:-No sir,I don't know anything about such doings at all. I don't know anything about it at all.
330 Q:-At the time you were trying to mortgage the property,were you not? A:-What property?
331 Q:-The temple property,-the property in controversy in this case? A:-At what time?
332 Q:-At the time these parties were dis-fellowshipped?
A:-I don't know anything about mortgaging any property. If there is anything of that kind going on I don't know anything at all about it.
333 Q:-Well was not that question discussed in your meeting, at one time? A:-Not that I know of.
334 Q:-Was that question discussed at any time in any of your meetings?
Counsel for the defendants objects to the question for the reasons above set forth.
A:-Not that I know of.
335 Q:-Did not Our president Charles A.Hall,have a revelation,or claim to have a revelation,authorizing that property to be sold? A:-To be sold,-
336 Q:-I should say mortgaged,-did he not claim to have a revelation authorizing that property to be mortgaged?
By Mr.Southern,-"Please enter the same objection as the last,to all of these questions."
A:-No sir,not that I know of.
337 Q:-Did he not so state it? A:-No sir,not that I know anything ~~XXXXX~~ of.

338 Q:-Did not anybody,-did not somebody or anybody so state the fact to be in your meeting in the presence of Hall and yourself?
Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that it is incompetent,irrelevant and immaterial,and not proper cross examination.
A:-No sir,I don't believe that they did.
339 Q:-Well do you say that they did not? A:-I say I don't know anything about it. If it ever was done I don't recollect it.
340 Q:-Was it not so stated in the presence of Mrs.Haldeman and Franklin and Mrs. Franklin? A:-No sir,not that I remember.
341 Q:-And Mrs. Hedrick and Alma Owen,the party that was on the witness stand here on Saturday?
Counsel for the defendant objects to the question on the grounds above set forth.
A:-I don't know anything about any such an arrangement.
342 Q:-You don't? A:-No sir.
343 Q:-Do you swear that you never heard that stated in any of your meetings? A:-I swear that I don't recollect anything about it if there was.
344 Q:-Do you swear that there never was any such thing contemplated?
Counsel for the defendants objects to the question for the reasons above stated.
A:-Not that I know of. Of course I don't know anything about it if there was,-that is what I say.
345 Q:-If there was any such thing contemplated,it was without any authority from the church,was it?
A:-If there was any such a thing done,-
346 Q:-Contemplated,I said? A:-I don't know of any such a thing being done.
Counsel for the defendants objects to this entire line of examination for the reasons above stated.
347 Q:-If the President of the defendent church,C.A.Hall has written any such a statement as that to parties who were members of the defendent church at any time he did it without any authority from the church did he not?
Counsel for the defendants objects to the question asked the witness for the reasons and on the grounds above set forth.
A:-I don't know anything about it at all,if it was done. If he has done that,and I don't know that he has,he has done it on his own resources.
348 Q:-Do you know a man by the name of Reynolds?
A:-Yes sir.
349 Q:-Who is an elder in the defendant church? A:-He was a member of our church at one time.
350 Q:-He was a member of your church you say? A:-Yes sir.
351 Q:-Wasn't he an elder in the defendant church? A:-Possibly so. I don't remember.
352 Q:-He was disfellowshipped,was he? A:-I don't remember. He is not a member of the church now I believe, but whether he was disfellowshipped or has withdrawn I don't know how that is. I am not sure about that,for I don't remember about it exactly.
353 Q:-Is it not a fact that he withdrew from the defendant church for the reason that the president of that church,C.A.Hall claimed to him (Reynolds) by written correspondence that he had a revelation authorizing the mortgaging of the property in controversy?
Counsel for the defendants objects to the question asked the witness for the reason above stated.

338 Q:-Did not anybody,-did not somebody or anybody so state the fact to be in your meeting in the presence of Hall and yourself?
Counsel for the defendants objects to the question asked the witness on the ground and for the reasons that it is incompetent,irrelevant and immaterial,and not proper cross examination.
A:-No sir,I don't believe that they did.
339 Q:-Well do you say that they did not? A:-I say I don't know anything about it. If it ever was done I don't recollect it.
340 Q:-Was it not so stated in the presence of Mrs.Haldeman and Franklin and Mrs. Franklin? A:-No sir,not that I remember.
341 Q:-And Mrs. Hedrick and Alan Owen,the party that was on the witness stand here on Saturday?
Counsel for the defendant objects to the question on the grounds above set forth.
A:-I don't know anything about any such an arrangement.
342 Q:-You don't? A:-No sir.
343 Q:-Do you swear that you never heard that stated in any of your meetings? A:-I swear that I don't recollect anything about it if there was.
344 Q:-Do you swear that there never was any such thing contemplated?
Counsel for the defendants object to the question for the reasons above stated.
A:-Not that I know of. Of course I don't know anything about it if there was,-that is what I say.
345 Q:-If there was any such thing contemplated,it was without any authority from the church,was it?
A:-If there was any such a thing,done,-
346 Q:-Contemplated,I said? A:-I don't know of any such a thing being done.
Counsel for the defendants objects to this entire line of examination for the reasons above stated.
347 Q:-If the President of the defendant church,C.A.Hall had written any such a statement as that to parties who were members of the defendant church at any time he did it without any authority from the church did he not?
Counsel for the defendants objects to the question asked the witness for the reasons and on the grounds above set forth.
A:-I don't know anything about it at all,if it was done. If he has done that,and I don't know that he has,he has done it on his own resources.
348 Q:-Do you know a man by the name of Reynolds?
A:-Yes sir.
349 Q:-Who is an elder in the defendant church? A:-He was a member of our church at one time.
350 Q:-He was a member of your church you say? A:-Yes sir.
351 Q:-Wasn't he an elder in the defendant church? A:-Possibly so. I don't remember.
352 Q:-He was disfellowshipped,was he? A:-I don't remember. He is not a member of the church now I believe, but whether he was disfellowshipped or has withdrawn I don't know how that is. I am not sure about that,for I don't remember about it exactly.
353 Q:-Is it not a fact that he withdrew from the defendant church for the reason that the president of that church,C.A.Hall claimed to him (Reynolds) by written correspondence that he had a revelation authorizing the mortgaging of the property in controversy?
Counsel for the defendants objects to the question asked the witness for the reason above stated.

A:-What is that?

354 Q:-I asked you if it is not a fact that Mr. Reynolds withdrew from your church for the reason that the President of the defendant church through the medium of written correspondence claimed that he had a revelation authorizing the mortgaging of the temple property,-the property in controversy?

By Mr.Southern,-"My objection runs to that question also.

A:-I don't know a thing about that at all.

By Mr.Kelley,-

355 Q:-And for that reason he withdrew? A:-I don't know anything about it at all.

356 Q:-Did the President of the defendant church,C.A.Hall ever claim to you that he had such a revelation?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is irrelevant and incompetent and immaterial,and not proper cross examination,and a repetition of examination already gone through with.

A:-No sir.

357 Q:-Are you the trustee of this property in controversy? A:-Yes sir.

358 Q:-For what church do you hold it as trustee?

A:-For the church of Christ.

359 Q:-The church of Christ organized the 6th day of April 1830? A:-Yes sir.

360 Q:-Of which Joseph Smith,Jr,the Seer,was the president? A:-No sir,I don't think he ever was a president of that church.

361 Q:-Do you say he was not its president? A:-I don't so understand that he was.

362 Q:-I mean the original Joseph Smith,who was called Joseph Smith,the Seer? A:-Who are you talking about? Is it the one that organized the church on the 6th day of April 1830? A:-Yes sir.

363 Q:-You sir? A:-Yes sir. It is not the present Joseph Smith,for he is in the church while his father was the church. He is the one I mean and not this Joseph Smith.

364 Q:-Then you refer to the church of which Joseph Smith Jr,the Seer,was the President? A:-Yes sir.

365 Q:-And it is the same church that you claim to hold the property in controversy in this case,in trust for? A:-Yes sir,-he is the one,-he organized the church on the 6th of April 1830 as I understand it.

366 Q:-And you hold the property in trust for the succession of the church that was organized in 1830?

A:-No sir,-we hold it in trust as that church for the church. We claim to be a part and parcel of that church,and hold this property in trust for that church,which we are.

367 Q:-And for the church that is in the succession?

By Mr.Southern,-"I object to that question for the reason ,-because it asks for an opinion of the witness,and there is better evidence of what his powers are."

By Mr.Kelley,-

368 Q:-Is that not true Mr.Hill? A:-Of course I do,and we claim to be the original church. That is our claim and we hold it for the church,which we claim to be.

369 Q:-Is it not true that you claim,and hold,and have always so claimed and held since you have been the trustee, to hold the property in trust

for the legal succession of the church that was organized in 1830? A:-In no other way have we held it than for the church, and we claim to be the church in legal succession from 1830 down to the present. We are holding it in trust for the church that is represented by us, and which we claim is the church which was organized by Joseph Smith on the 6th day of April 1830 as history records it. We claim to hold this property in that way, as being part and parcel of that very church organized at that time.

370 Q:-Have you not stated on different occasions that you were willing to turn the property over to any church that would show it was the legal successor of the church organized in 1830? A:-No sir.

371 Q:-You swear that you did not make that statement to any one at any time? A:-I did not.

372 Q:-Did you not make that statement to Alexander H. Smith here at Independence? A:-No sir.

373 Q:-You did not? A:-No sir.

374 Q:-And also did you not make that statement to E.L. Kelley, Bishop of the re-organized church of Jesus Christ of Latter Day Saints, here at Independence? A:-No sir.

375 Q:-You solemnly swear that you did not make that statement neither to Alexander H. Smith or to E.L. Kelley at any time, here in the city of Independence? A:-No sir,-not in that manner,-

By Mr. Southern,-"I must again make my objections to this kind of an examination on the same old grounds,-that it is immaterial and a most outrageous and flagrant abuse of the privilege of cross examination.

A:-Her understand I don't deny that I had a conversation with them, for I did, but I deny having a conversation with them in which I said anything worded the way you have it. I did not word it as you state it for I know what I said. I remember that all right.

By Mr. Kelley,-

376 Q:-Well word it just as you stated it? A:-No sir, I did not state it that way.

377 Q:-Well I say for you to word it just as you stated it to Alexander H. Smith? Word it just as you stated it according to your version, to Alexander H. Smith and E.L. Kelley? A:-I stated it like this, if I stated anything at all, that if the Lord would make it known that there was any one in wisdom as the instruments in his hands to use that property, that we would say amen to it, and that he was welcome to it.

378 Q:-That was what you said? A:-That was about the substance of what I said if I said anything.

379 Q:-Well now did you not say at the same time and place, that the legal successor to the original church was the proper ~~XXXXXXXXXXXX~~ party to hold the property? A:-What is that? Say that?

380 Q:-That the legal succession to the original church was the proper party or parties to hold the property? A:-No sir.

381 Q:-You did not state that? A:-No sir, I did not so state it.

382 Q:-Do you swear that you did not make that statement to Alexander H. Smith and E.L. Kelley?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is not proper cross examination, and is irrelevant and immaterial to any of the issues involved in this case.

A:-No sir, I did not say that.

383 Q:-Do you not say now that the legal succession to the original church established in 1830 is the proper

~~-tv~~ A:-I can't say.
Counsel for the defendants objects to the question asked the witness on the grounds and for the reasons last set forth.
884 Q:-Do you not state that now? A:-What is the question?
885 Q:-I asked you if you do not say now that the legal succession to the original church established in 1830 is the proper beneficiary of that property?
A:-I don't remember that I said that.
886 Q:-I am not asking you if you said that then,-I am asking you if you say it now? A:-I say that those who have held themselves faithful in the doctrine and laws of the true church are the proper successors to the original church. That is what I say,and I say that they are the right ones to have it.
887 Q:-Who are they that comply with this requirement?
A:-The ones that have conducted the selves right,and have not violated any law of the church,-the ones that have not transgressed any law are the proper ones,for they are the rightful possessors of the property.
888 Q:-You say they are the ones that ought to have control of it?
Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and is not cross examination.
A:-You you have asked for my opinion and I have given it to you for what is worth,and that is all I have to say on that question.
889 Q:-Well you have also expressed your opinion upon the other subject? A:-Well I don't know that I have. I don't know that it is necessary for me to do that.
890 Q:-If you knew that the re-organized church of Jesus Christ of Latter Day Saints was the proper and legal successor of the original church established in 1830 would you still decline to turn the property over?
Counsel for the defendants objects to the question for the reason that it is incompetent,irrelevant and immaterial,and for the further reason that it is not cross examination.
A:-If it is necessary for me to answer that question I can answer it,
By Mr.Southern,-
891 Q:-It is not necessary in my opinion,but still it is about as necessary to answer it as it has been for you to answer nearly every question that has been asked you.
By Mr.Kelley,-
892 Q:-Do you decline to answer that question?
A:-Yes sir.
893 Q:-What is your reason for declining to answer it?
A:-For the reason that I think I have answered enough.
894 Q:-Then I am to understand that you would not be willing to surrender the property,even if you knew absolutely that the plaintiff in this case was the legitimate and true succession to the original church established in 1830?
By Mr.Southern,-"To that we make the same objection as is heretofore recorded,with the additional objection to all this testimony that the witness has been asked,on the ground that the powers of the witness are all a matter of record,and all this examination as to what the witness would do under certain contingencies is immaterial and irrelevant to any of the issues involved in this case,and is an abuse of the rights of cross examination."

By Mr.Kelley,-

395 Q:-What is your answer? A:-What is the question,-it is so long since you asked it that I have forgotten what it was.

396 Q:-First I will ask you if your powers of trustee are a matter of record? A:-Yes sir.

397 Q:-Where? A:-I don't know.

398 Q:-Don't you know where the record is that contains your powers as trustee? A:-No sir. I don't know who hands that record in now. That is something I don't know.

399 Q:-Well what is your best impression as to where they are? A:-I cannot say,for sometimes one of the brethren of the committee has them,and sometimes another,and I can't say who has them now. We pass them around from time to time for convenience, and I can't say where they are now.

By Mr.Southern,-"We object to all these questions that are being asked the witness,for the further reason that the plaintiff in its bill as filed,has made allegations stating that the witness Hill has the property under the appointment as the successor of Greenville Hedrick."

By Mr.Kelley,-

400 Q:-Did the plaintiffs in this suit ever make a demand on you for the property in controversy in this action?

By Mr.Southern,-"I object to that question because it is immaterial and not cross examination."

By Mr.Kelley,-

401 Q:-Prior to the payment of any of these taxes that you have testified to here as having paid?

Counsel for the defendant objects to the question asked the witness for the reasons and on the grounds as above set forth.

A:-I decline to answer that question.

402 Q:-You decline to answer that question also?

A:-Yes sir.

403 Q:-Why do you decline to answer it?

By Mr.Southern,-"I don't think Mr.Hill understands that question also he would not refuse to answer it."

By Mr.Kelley,-

404 Did the plaintiffs in this suit ever make a demand for the possession of the property in controversy in this suit,prior to the time of the payment of a portion of the taxes that you have testified here as having paid? Now you will understand that the plaintiff I refer to is an incorporated organization with head quarters at Lamoni,Iowa? A:-Did you say previous to paying any taxes?

405 Q:-No,previous to paying any part of them? A:-When?

406 Q:-That is for you to say,-previous to paying any part of the taxes you have testified as having paid, -say within the last four or five years? A:-Yes sir if I remember right they served a kind of a notice on me at one time.

407 Q:-Was that four or five years ago? A:-I don't remember.

408 Q:-Well was it about that time? A:-I don't recollect the time,but it was some years ago. I don't remember just when it was,but I would say that it was at least that long ago.

409 Q:-Was it not about the time that you were fixing to build that house there? A:-I can't say,for I don't remember about that,but I recollect anyway that they served a notice on me.

410 Q:-You recollect the fact that they served a notice on you,but you don't recollect the time it was done? A:-Yes sir, I remember about the notice,but I don't remember the date.

411 Q:-Do you recollect who it was served that notice on you at that time? A:-I can't say that I do.
412 Q:-Now is it not a fact that that notice was served on you by E.L.Kelley for Bishop Blakeslee,-is that not the fact Mr.Hill? A:-E.L.Kelley was the one that read the notice to me I believe if I remember right. I did not remember that at first,but I do now that you call my attention to it. Yes sir,that was the way it was probably.
413 Q:-Well E.L.Kelley was the man that served it on you? A:-Yes sir,I presume you would call serving it on me,-he read some kind of a notice to me.
414 Q:-The demand was recited in that notice to turn the property over to Bishop Blakeslee,was it not? A:-I don't remember anything about that.
415 Q:-Well do you remember that it did not recite that demand? A:-I say that I don't remember anything about that. I remember the fact that what you call the notice was read to me,but I don't remember what its contents were.
416 Q:-You may state first are the geographical limits of what is known as the branch here at Independence? A:-Do you want to know how far it extends?
417 Q:-Yes sir? A:-Well I believe it has a radius of five miles. That is it is its if I am not mistaken.
418 Q:-When was that radius fixed? A:-I don't remember.
419 Q:-How long ago,about,was it that that limits was fixed in the geographical limits of the branch here at Independence? A:-That I cannot say. It was several years ago,but I don't just remember when it was.
420 Q:-Was it from three to five years ago? A:-Some where about that I think.
421 Q:-Was that the rule in the original church established in 1830? A:-I can't say as to that,for I don't remember whether it was or not.
422 Q:-Well was there any rule on that subject? A:-That I don't remember. That is certainly I can't remember ,-I don't remember that the rule was in the church at that time.
423 Q:-Well was there any rule on that subject. A:-That I don't remember.
424 Q:-You were,-you are familiar with the rules relating to branches,and if there was any rule in the original church relating to them in respect to defining their limits,you were familiar with that rule-were you not,if there was such a rule in the original church? A:-Not so very much,for it was so long ago, and I was young then,and I can't remember as well as I could once.
425 Q:-Well can't you recollect from reading? A:-Well not very much.
426 Q:-Well was there any rule at all with reference to that question in the original church? Counsel for the defendants objects to the question asked the witness on the ground that it is not cross examination and is immaterial.
A:-I can't remember.
427 Q:-You say the defendant church established that rule from three to five years ago? A:-I should judge it was about that long ago as well as I can remember. Counsel for the defendants objects to the question last asked the witness for the reasons above set forth.

428 Q:-What was your answer? A:-I said I should judge it was about that long ago.
429 Q:-That was from three to five years ago? A:-Yes sir.
430 Q:-Now is it not a fact that two members of your own church without a,-beyond a pedigree of five miles,are not admitted to vote in your own church meetings in Independence?
Counsel for the defendant objects to the question and the witness on the ground that it is immaterial and is not proper cross examination.
A:-I don't rightly understand. But, for all the members to take part in proceedings are different thing. We don't prohibit them,if they could.
431 Q:-Is there a common account here in your church meetings in Independence,for all the members of the church outside of the five miles limit to take part in it? A:-No sir,they are not admitted to XXXXXXXX to vote,except by the courtesy of the church here,if they live outside of the limit.
432 Q:-Are there any that live outside of the five mile limit in all of the meetings,but in fact they are admitted to vote? A:-No sir,not.
433 Q:-How many of them are there that are outside of the five mile limit? A:-I don't say.
434 Q:-Are Bell and Cole within or outside of the five mile limit?
Counsel for the defendant objects to the question asked the witness on the ground that it is immaterial,and not proper cross examination.
A:-Cole is.
435 Q:-Is Bell outside of it? A:-No sir.
436 Q:-Is Frisbie outside of the five mile limit?
A:-No sir.
437 Q:-Is it inside it? A:-Yes sir.
438 Q:-Is Alex Owen outside the five mile limit?
A:-Alex Owen?
439 Q:-Yes sir? A:-He is not in this district.
440 Q:-Well how many of the members of the church are outside of this five mile limit? A:-I don't say.
441 Q:-Well about how many? Give us your best recollection?
A:-I do not just remember.
442 Q:-Is Martin?
Counsel for the defendant objects to the question for the reasons above set forth.
A:-I don't remember.
443 Q:-Is James Hodrick outside? A:-No sir.
444 Q:-James Hodrick is within the limit? A:-Yes sir.
445 Q:-Is Alex Owen? A:-No sir,Alex Owen is ~~within the~~ out of the limit.
446 Q:-Is it not a fact that the church here at Independence,Missouri,has not to exceed fourteen members?
Counsel for the defendant objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not cross examination.
A:-I don't know.
447 Q:-Well do you say there is not that many,or more than that many? A:-Well I could not know without taking the books and counting them up. I can't just remember off hand how many members there is.
448 Q:-Well will you swear that there is more than of you belongs to this church here at Independence?
A:-I don't want to swear at all as to how many there is,because I don't remember.

Counsel for the defendants objects to the question asked the witness for the reasons above set forth.

449 Q:-Does the defendant church believe in a prophet?
A:-Does the church believe in what?

450 Q:-Does the defendant church believe in a prophet?
A:-Believe in a prophet?

451 Q:-Yes sir?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not proper cross examination.

A:-(laughing) Well that is kind of funny. That is a funny question to ask a person,-to ask him if he believes in a prophet. Well, well that is a new experience to me.

452 Q:-Will answer the question? A:-Of course they all believe in a prophet as far as my understanding goes. I have yet to see one who did not, for if he did not he could not belong to the church.

453 Q:-They all believe in a prophet, you say? A:-Yes sir, they all do as far as my understanding and knowledge goes. I have never seen one that did not.

454 Q:-Then the defendant church believes in a prophet?
A:-Why certainly it does.

455 Q:-And they believe that it is proper to have one in the church, do they? A:-They believe it is a good idea to have one if they can get a genuine one.

456 Q:-Well do you have any prophet now? A:-I don't know.-

Counsel for the defendants objects to the question asked the witness for the reasons above set forth.

A:-I don't know sir.

457 Q:-Do you decline to answer that question XXXXX also?
A:-Yes sir.

458 Q:-Why do you decline to answer the question?
A:-Because I do not think it is necessary.

By Mr.Coutts,-

459 Q:-If you know you may answer the question, with the objection to the question that it is merely irrelevant and immaterial?
A:-What is the question? Did you ask me if we had a prophet?

By Mr.Kelley,-

460 Q:-Yes sir? A:-I don't remember that we have at the present time.

461 Q:-Do you have an apostle? A:-No sir.

462 Q:-Do you have anybody? A:-That is what?

463 Q:-Do you have any one who claims to be a prophet who is a member of your church? A:-No sir, I don't know of any one who claims to be a prophet.

464 Q:-Has there been any revelation received by the defendant church within the past fifteen years?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not cross examination.

465 Q:-Answer the question? A:-Well as I understand,-revelations accepted by the church or given to the church.

466 Q:-Given or accepted,-received,-given to any member of the church and received by the church and accepted by the church? A:-I don't know of any being accepted.

467 Q:-Do you know of any being received by the members of the defendant church? A:-No sir.

468 Q:-You don't know of any revelation being presented to

the church by any member of XXXXXXXXXX it for acceptance?
A:-No sir..
469 Q:-What is that? A:-I said no.
470 Q:-Then you don't know anything about any revelation being presented to the church by any member of it for acceptance? A:-No sir.
471 Q:-You don't? A:-No sir, that is what I said two or three times.
472 Q:-If there had been would you have known it?
A:-I can't say. I might have known it if I had been there at the time it was presented.
473 Q:-Well you attend regularly don't you? A:-I attend as regularly as I can.
474 Q:-You attend as regularly as you can,-well how regularly is that? A:-Quite regularly.
475 Q:-Do you know of any important meeting of the church that you have not attended in the last five years?
A:-Well the meetings are all important to me. I don't know any difference in their importance to me, for one is just as important as another to me.
476 Q:-They are all important to you? A:-Yes sir, to me they are all important, and I don't know of one that is of more importance to me than another.
477 Q:-Who is your church president? A:-J.P.Frisbie.
478 Q:-Who is your church librarian? A:-We haven't any.
479 Q:-Who is your church secretary? A:-J.P.Frisbie.
480 Q:-Is he your recorder and secretary both? A:-Yes sir.
481 Q:-Why do you call him secretary? A:-We call him the secretary because he acts in that capacity.
482 Q:-What rule, if any, has the church of the defendant church here in Independence, made within the last two years with reference to the matter of dress?
A:-Dress?
483 Q:-Yes sir, the dress of its members?
Counsel for the defendant objects to the question asked the witness on the ground that it is incompetent, irrelevant, and immaterial, and not proper cross examination.
484 Q:-What is your answer? A:-They have made no rule at all.
485 Q:-Do you swear there has been no rule adopted by the church with reference to the question of dress?
A:-No sir.
486 Q:-There has been no rule? A:-No sir. No rule.
487 Q:-Has there been anything done on that question?
A:-Yes sir. There has been some advice given on that question, but there was no rule adopted.
488 Q:-Has anybody been disfellowshipped on that account?
A:-In what account?
489 Q:-Because they would not comply with the rule of the church? A:-No sir. I said there had been no rule adopted on dress,-that was merely a matter of information and advice to the church but there was not anything in the nature of a rule about it.
490 Q:-Did you say that there had been no one disfellowshipped on account of their failure to observe the rule, or disfellowshipped on account of dress? A:-No sir, not [illegible] done.
491 Q:-Have they not been complained of for that particular thing, or [illegible] within the last two or three years?
A:-I don't remember. It might have been.
492 Q:-Would it be a part of the [illegible] XXX [illegible] a rule of the church? A:-Well yes sir, I think it could.

494 Q:-You think it could? A:-Yes sir.
495 Q:-Now, sir, you think the charge against a member of the service could contain a specification regarding the matter of dress, over and above the question of dress not being a rule of the service? A:-Yes sir.
496 Q:-Then it is a fact that in the defendant, certain members have been charged with disobedience that are not against the rules of the service, and can be excluded from the service on that account? Is that what you want? A:-Well no. I don't say that. do
497 Q:-Well, or you say about it? A:-I don't think they are to be excluded for that. I don't think that is so, but they can be charged with conduct that the service thinks is unbecoming, and that is taken in connection with violation of certain rules of the service, while in itself this conduct, while not, can be not to be excluded, still it can be considered in connection with the offence against the rules of the service. They cannot be excluded unless there is rules or regulations to that effect governing the matter.
498 Q:-Well if there were one more excluded with charges against them for not complying with the rules relating to dress, it would be because of the rule of the service on that subject, would it not?
Counsel for the defendant: objects to the question based the evidence on the ground and use the reason that it calls in the first place for an opinion of the witness, and in the second place because it is incompetent, irrelevant and immaterial, and in the third place because it is not cross examination.
499 Q:-Answer the question? A:-I don't exactly know now to answer that question.
500 Q:-Well, if members had been excluded, or have been excluded from the department, when, there the charge has been disobeying the rule or usage in regard to dress, it could be because the service had established such a rule would it not? A:-I don't think anybody has been excluded for that matter. I think the men have been disciplined and have been treated because of other things. I don't think the matter of dress was the cause of the men being disciplined.
501 Q:-Well that is merely an answer to my question. I will repeat my question,-if the men have been expelled from the service to which you belong, where the charge has been disobeying the rule or usage of the service in regard to dress, it would be because the service had established that rule, wouldn't it?
A:-Well not necessarily.
502 Q:-It could be for that and other things together?
A:-Yes sir.
503 Q:-That would be the way it would be? A:-Yes sir, and I think it has been for that and other things together, but for me to testify what it was in any individual case I could not do it, for I don't remember.
504 Q:-Were not Franklyn and Wm. Wife discharged good for refusing to comply with that particular rule, and for nothing else? A:-No sir, I don't think it was for that and nothing else. I think there was other things.
505 Q:-Do you know what the other things were? A:-No sir.
506 Q:-Was not that the only thing that was specified in the charge? A:-I don't remember.
507 Q:-Well do you say that was not the only thing? A:-I don't remember whether it was or not.

508 Q:-Was not the charge for rebellion? A:-I don't remember.

Counsel for the defendants object to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial, and not proper cross examination.

509 Q:-Do you say the charge was not rebellion? A:-I say I don't remember.

510 Q:-Don't you not, one of the judges of the trial court, at the bar? A:-Yes sir, I believe I was.

511 Q:-Will count, was the charge? A:-I don't remember on the charge read. I don't remember at that time on the charge read.

512 Q:-A: matter of fact, was not the only thing? A:-Not the only thing?

513 Q:-Was the charge was the charge of rebellion, and that all that was the only thing? A:-I don't remember that was the only thing. I don't remember that was alone or certain also.

514 Q:-Do you remember anyt. in also that was in the charge or not. I don't remember whether it was in the only thing or not. [illegible] or not. I don't have been at it. I don't say nor whether there was or not.

515 Q:-Did you [illegible] part of the charge? A:-[illegible] I [illegible] part of the charge.

516 Q:-[illegible] Franklyn and [illegible] with reference to [illegible] or particular kind of [illegible] [illegible].

517 Q:-Do you say that is not the case? A:-I say that [illegible] any kind of dress. We have not [illegible].

518 Q:-Did you [illegible] the name of 'plain [illegible] not? A:-[illegible] all that was done, [illegible] or uniform pattern of it [illegible] [illegible] prescribe any kind of [illegible] pattern.

519 Q:-[illegible] first [illegible] and prescribe a [illegible] pattern? A:-[illegible]

520 Q:-Did you not [illegible] and [illegible] to [illegible]? A:-[illegible]

521 Q:-Still you say [illegible] prescribe in the [illegible] to [illegible] it? A:-[illegible] I say that was [illegible] it,-it was [illegible] not to be [illegible] to [illegible] it. It was left to the [illegible] to [illegible] [illegible] they [illegible].

522 Q:-Do you [illegible] charge [illegible] rebellion [illegible] the charge? A:-I don't know that [illegible] a thing. I don't know that [illegible] any body [illegible] rebellion which they had been guilty of rebellion.

524 Q:-Did you not [illegible] Franklyn with rebellion, and the only [illegible] [illegible] guilty of war in refusing to [illegible] [illegible] to [illegible] and fall [illegible] to life? A:-[illegible] sir.

525 Q:-Spinning and fall I mean? A:-Yes sir.

Counsel for the defendants object to the question asked the witness for the reason and on the grounds above [illegible].

A:-Yes sir. We are not guilty yet of attempting to dic-

tate to a man as to what he shall fear or what he shall not fear. We have not got down to that yet.

526 Q:-You have not attempted that yet? A:-No sir, we haven't attempted it yet, and it is very unlikely that we ever will.

527 Q:-And you are just as positive of that statement as you are of anything else you have testified to? A:-Yes sir, just the same, for I know what I am talking about all right enough.

528 Q:-And you are positive of the fact that Mr. Baldoman was not excluded for the same reason and for nothing else? A:-What is that?

529 Q:-I asked you if you were just as positive of the fact that Mr. Baldoman was not excluded for the same reason and for nothing else? A:-Did I say she was disfollowmi ped?

530 Q:-Well answer the question? A:-She was not dis-fellowmi ped,-she was not disfollowmi ped at all,-she withdrew and wasn't dis-fellowmi ped.

531 Q:-Well is withdrawal a sin? Is it a fault not only with your ruling in relation to drinking? Do that not to some extent for withdrawal? A:-I don't know.

532 Q:-Did you not say that it was your teaching? A:-Not that I recall of.

533 Q:-Did you say that you did not make that statement in your testimony? A:-I never recall any such a statement. I never recall any such thing.

534 Q:-Will you swear that there was anything else than the reason for withdraw. A:-I don't know of anything else than withdraw.

535 Q:-Did you not specify what caused her to withdraw? A:-No sir, I don't recollect what it. She just withdrew and did not tell me why she withdrew, and I never asked any other of it, or the object.

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Cross examination continued by Mr. Kelley,-

536 Q:-[illegible] I believe you said you [illegible] to church, [illegible] you not, [illegible] Baldoman withdrew? A:-[illegible] I did not tell [illegible] anything about her [illegible] I made her anything about. [illegible] before [illegible] any just or [illegible] I want to say that [illegible] that I did not fully understand you [illegible] regarding [illegible] and I [illegible] corrected [illegible] reason. One [illegible] in re [illegible],-

537 Q:-Will that [illegible] by the time [illegible] by your [illegible] on your re-examination?

By [illegible],-"Mr. [illegible] the objection you [illegible] to make go [illegible] if you want it, to the witness to explain anything, but [illegible] witness at the [illegible] to make any explanations [illegible] here and now. I have always found it best, [illegible] allowable to allow the witness to make his corrections at the time if he thinks [illegible], and he can make his correction now if he [illegible] anything. I am sure I don't know what he is [illegible] to state."

A:-Well it [illegible] in relation to Mr. Franklin,-

538 Q:-Well what is it? A:-If I understood it correctly I understood [illegible] to say or ask me if they were disfollowmi ped and I said they were. Well I was mistaken in that, for they were not dis-fellowmi ped but withdrew. So that is the facts in relation to them; and another thing is, in relation to Daniel Horger and his wife was members. If they were members I have forgotten the fact, but his wife is not a member at the present. His wife is not

a member of the church at the present time, but my recollection of my testimony is that I gave you to understand that she was, but upon I come to refresh my recollection I know she is not a member. Now that is the correction I wish to make together with the correction regarding the franklins, for they withdrew and were not disfellowshipped. The question was a little past my memory at the time, but when I come to look it over I remember that they were not disfellowshipped but withdrew. I can't think of all the things off hand, so as to answer them without reflection, but I have done the best I could under the circumstances. Now there is not all for I made a mistake in regard to Sochlo,-I stated that his family were disfellowshipped. Now that is not the truth, for they were partly disfellowshipped, and partly they withdrew.

By Mr.Kelley,-

539 Q:-Were disfellowshipped? A:-Yes sir, one of the members of the family withdrew. Now that is all I wish to state now by way of explanation, further than that the Haldeman's were in the same way,- one of the were disfellowshipped and one of them withdrew, and if in my prior testimony I failed to make that statement with reference to the ones that withdrew and the ones that were disfellowshipped I do it now. Perhaps I did not state for many withdrew or many were disfellowshipped, and that is the reason that I make this statement now. I do not know of anything further that I can say by way of explanation. Some questions were asked me, one after another, that I could not answer them definitely so I would like to have done, and did not know it was necessary,-particularly necessary that I should do so.

540 Q:-Is that all? A:-That is all the correction I wish to make.

541 Q:-Having the information have you refreshed your recollection sufficiently to be able to state the exact number of members that belong to the branch of the defendant church here at Independence?
A:-No sir, but I believe I can come pretty near it. Now I wish to say that you asked me that before, and it was one of the questions with I think I did not understand you in. I supposed you asked me how many members there was of the branch,-I did not understand you to say the branch. I don't know whether you asked me that or not, but I think now that was the question you asked me.

542 Q:-I asked you both questions,-first I asked you with reference to the church, and then with reference to the branch? I will ask you how many members there are in the branch? A:-Well I believe as near as I can remember in the branch there are there is about twelve or thirteen members. Now that is my opinion, for I cannot say positively as I have not counted the members in the branch.

543 Q:-Have you not examined the record during the intermission so as to see how many members the defendant church actually has in its membership? A:-No sir, I did not.

544 Q:-Do you know how many members there is who actually belong to the defendant church? A:-No sir, I do not.

545 Q:-What other property, if any, except the property in controversy in this suit, are you the trustee in trust to the church for? I mean the defendant church?
A:-Do you mean what other property outside of this property?

546 Q:-Yes sir? A:-None. I know of none.

547 Q:-Are you the sole trustee? A:-I believe I am.

548 Q:-Are you the sole bishop of the church?

A:-Yes sir.

549 Q:-Under the law of the defendant church does the property of the church necessarily go into the hands of a bishop or trustee?
Counsel for the defendants object to the question asked the witness on the ground and for the reason that it is immaterial, irrelevant and immaterial, not proper upon examination, and does not call for the best evidence.
550 Q:-What is the answer? A:-I don't know.
551 Q:-You don't know that? A:-I don't know that I am able to answer that question. I can't say that I am able to answer that. I would if I could, but I don't believe I can do so.
552 Q:-Is there any law of the church, regulating that subject, and if so in that book can it be found? A:-Do you mean by that, does the property come into the hands of the bishop?
553 Q:-Yes sir, under that law does it come into the hands of the bishop, or under his control, if there is a law governing that subject? A:-Yes sir, I believe there is a law governing that, but I don't remember that the law is or where it is.
554 Q:-Is it by virtue of a revelation found in the book of Doctrine and Covenants, that is promulgated through Joseph the Seer?
By Mr. Southern,-"Well I object to that because the witness says he does not know, the reference the question is objectionable."
A:-I haven't the proper books upon to ascertain what law is in the fact or not and therefore I cannot say.
555 Q:-Is it by virtue of this same law that creates the office of bishop?
Counsel for the defendant objects to the question asked the witness on the grounds above set forth.
556 Q:-What is your answer? A:-I don't just remember how the law reads in the book of Doctrine and Covenants.
557 Q:-You do not know where the law is to be found, if there is such a law? A:-I think there is a law on the subject, but I can't just bring to mind to where it is, so that I can say where it is.
558 Q:-Well do you refer to the revelation in the book of Covenants that was given through the prophet Joseph Smith, the Seer?
By Mr. Southern,-"I object to that, because the witness has not stated that he refers to any doctrine in the book of Covenants."
By Mr. Kelley,-
559 Q:-Well I don't assume that he does,-I am asking him if he does? ~~[illegible]~~ A:-I don't remember any thing about it at all.
560 Q:-Well do you say you don't recollect what is said about it in the book of Doctrine and Covenants? Do you say you don't know what it is that is stated in the book of Doctrine and Covenants? A:-There is some law there on that subject I think, but I do not know what it is, or where it is.
561 Q:-Well do you refer to any law that is recorded in the book of Doctrine and Covenants? A:-Well I say I don't know where that law is recorded. At what time that ~~law~~ was received I don't know. There is some revelations there in that book of Doctrine and Covenants that I don't have any use for.
562 Q:-Is that one of them? A:-I can't tell unless I know the date when that one was received,-that is the date where it is recorded, for there are a good many that I don't hold to or recognize as authoritative.
563 Q:-Is the law in,-is it by virtue of the revelation

that is set out in the book of Doctrine and Covenants that was given through the prophet Joseph Smith, the seer, about the year 1832 or '33, which you refer to?
Counsel for the defendant objects to the question asked the witness on the ground and for the reason that it is not cross examination, and is irrelevant and immaterial, and on the further ground "because the witness has not stated that he refers to any such revelation or doctrine as given by Joseph Smith, or any body else.
564 Q:-What is your answer? A:-What is the question,-I don't recollect the question?
565 Q:-I asked you if it was by virtue and under the authority of the revelation that was given about the year 1832 or '33 through Joseph Smith, as it is set out in the book of Doctrine and Covenants?
A:-I do not feel able to answer that question understandingly.
566 Q:-Do you say you don't know that the rule of the ordinance was on that subject? A:-I forget now what it was.
567 Q:-Well do you- say you never knew? A:-I might have known on the start, but if I did I have forgotten now what it was. It is so long ago that I can't remember it, if I ever knew it, for it is a thing that I have not charged my memory with.
568 Q:-Were you ordained a bishop by the President of the church?
By Mr. Southern,-"That is objected to because it is covered by the other answers and questions asked in this examination, and to enter into it at this time is a repetition of matter already inquired into, and for the further reason it is objected to because it is irrelevant and immaterial and incompetent, and not cross examination."
By Mr. Kelley,-
569 Q:-You say answer? A:-I don't believe I can answer that question.
570 Q:-Why can't you answer it? A:-Because I don't feel like answering it.
571 Q:-Why don't you feel like answering it? A:-That is the question you-asked me?
572 Q:-I asked you if you were ever ordained a bishop by the President of the church? A:-Yes sir.
573 Q:-You were? A:-Yes sir, I expect I was.
574 Q:-Who by? A:-Who ordained me?
575 Q:-Yes sir? A:-Let me see,-I believe it was by Erastus and Cole and Hall. I think it was those that did it.
576 Q:-By Erastus and Cole and Hall? A:-I think they were the men that did it as near as I can remember.
577 Q:-Are you positive that those were the fellows that ordained you? A:-What do I say?
578 Q:-I asked you if you were positive that those were the men that ordained you? A:-No sir, I am not real positive about it.
579 Q:-Well if they did it,-if those three parties did not ordain you were you ordained at all?
A:-No, I reckon not.
580 Q:-Well you was that ordination conducted?
Counsel for the defendant objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant and immaterial, and not cross examination.
A:-I don't remember.
581 Q:-How long ago has it been since you were so ordained if at all?
Counsel for the defendants objects to the question asked the witness for the reasons above set forth.
A:-I don't just remember but I expect it was over two years ago. I think it was about two years ago.

582 Q:-It was about two years ago? A:-Yes sir, something like that I think. It was probably over two years ago.

583 Q:-You were ordained bishop over two years ago? A:-Yes sir, something in that neighborhood, I think.

584 Q:-Is it at all too much to say you have been bishop of that church? A:-Yes sir.

585 Q:-For two years or a little over? A:-Two or three years I think. I don't remember just how long it was but I think it was about that time,-two or three years more or less.

586 Q:-Were you the first bishop of the church here? A:-No sir.

587 Q:-Was there a bishop before you? A:-Yes sir.

588 Q:-Who was the bishop before you? A:-William Eaton, I think.

589 Q:-Did you also the bishop or was he simply the trustee? A:-He was the bishop.

591 Q:-Who ordained him? A:-I don't know.

592 Q:-Was he over ordained the bishop? A:-Well I don't know who ordained him. I did not see him ordained, and consequently I don't know that he was the bishop but I will say that I understood that he was the bishop of the church, and he acted in that capacity.

593 Q:-How long was he the bishop? A:-He was bishop I should say four or five years.

594 Q:-Four or five years? A:-Yes sir,-maybe five or six years,-I don't know that, or long he was the bishop.

595 Q:-Who was the bishop before this time? A:-That I don't know.

596 Q:-Who was the President of the church while Eaton was the bishop? A:-He was the President of the church at that time,-that is while William Eaton was bishop?

597 Q:-Yes sir? A:-Granville Hopper.

598 Q:-How many members were in the church at the time when you were ordained bishop? A:-Well I declare I don't know. I declare I cannot tell you.

599 Q:-Well about how many was there? A:-I could not say.

600 Q:-Approximate it. I don't care about having the exact number but you surely can approximate it, can't you? A:-Well anyway I would tell you I could be simply guessing, and I don't like to do any guess work in a thing like this.

601 Q:-Well give us your best judgment as to the number? A:-Well I say I don't like to do that, for that would be just work.

602 Q:-Well how many more than there in the church then than there is now? A:-I can't say.

603 Q:-Well was there one hundred? A:-No sir.

604 Q:-There was not one hundred more members in the church then than there is now? A:-No sir, I don't think so.

605 Q:-Was there fifty? A:-Hardly that.

606 Q:-Was there forty? A:-I don't remember, but maybe there was that many.

607 Q:-Well then there was several more members in the church then than there is now was there not? A:-Yes sir, there was several more, but I can't say how many there was.

608 Q:-Well how was your appointment as bishop brought about?

Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial and not cross examination and for the further reason, because it is a repetition of examination already gone over.

609 Q:-Answer the question? A:-How was I appointed bishop?
610 Q:-Yes sir,-how did your appointment as bishop come about? A:-In the usual way.
611 Q:-Well how was that? A:-By a simple vote of the church.
612 Q:-Was it by a simple vote of the church,or was it by a revelation? A:-Well I reckon it was by a vote of the church,but there might have been some such thing as a revelation,but I do not now remember ~~what it~~ how that was. I don't remember just positively how that was.
613 Q:-How what was? A:-Whether there was a revelation or not. I do not just remember how that was.
614 Q:-Who contributes the funds necessary to defray the expenses of the defendant church in this suit?
By Mr.Southern,-"Well I think it is time for me to run in an objection there. I have been abstaining from making formal objections to all of this examination as it is so clearly a flagrant violation of the privilege of cross examination that I have not felt under the necessity of objecting to each and every question asked formally,but I do not object to them, and I object to this question asked because it is immaterial,and in no sense pertinent to the issues of the case,or any of them,and it don't make the slightest difference who contributes the funds."
By Mr.Kelley,-
615 Q:-Now in asking that question I do not refer to the individuals who contribute in their individual capacity?
By Mr.Southern,-"Well that is objected to all the same. Your addition to the question don't make it any the less objectionable according to my way of looking at it."
By Mr.Kelley
616 Q:-What is the answer? A:-Well I furnish some of my own. I know that.
617 Q:-Does any body else furnish any? A:-I expect it is likely they do. I know I don't furnish it all.
618 Q:-Can you name any of them that furnish funds to assist in the defraying of the expenses of the defendant in ~~XXXXXXXXX~~ defending this suit?
Counsel for the ~~XXXXX~~ defendants objects to the question for the reasons above set forth.
A:-What is that?
619 Q:-Can you name any of the other parties who contribute towards this object? A:-I don't know as I can just now.
620 Q:-You can't name any others just now? A:-I can't remember their names just now. I can't remember the names of the parties who have put money into my hands at various times for that purpose,-that is,I can't remember their names just now.
621 Q:-How much,if any,has been contributed by what is known as the Salt Lake Mormon church,or the Brighamite ~~XXXXXX~~ Mormon church,-the church which at the present time is under that leadership of Wilford Woodruff,-how much,if anything,has been paid by them to defray the expenses on the part of the defendant in this suit? A:-I don't know of any.
622 Q:-Or by any member of that church? A:-I don't know of any.
623 Q:-That is all?
Re-direct examination by Mr.Southern,-
624 Q:-You have been asked Mr.Hill if you claim this property as trustee,by virtue of your,-of the church which you represent being the successor of what is called the original church here?

A:-What is that?
625 Q:-I say you have been asked how you claimed this property here? A:-Yes sir.
626 Q:-How you claimed the property in controversy here, and I want you to explain how you do claim it Mr. Hill?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is not re-direct examination and is immaterial and irrelevant.
A:-I think I have stated that full enough.
627 Q:-Well state how it is? A:-Well sir,the reason is because I have control of the property by reason of the fact that we own it legally because we have bought it and paid for it. That is the way we own it and that is the reason we consider it is ours.
Counsel for the plaintiff objects to the answer of the witness on the ground that it is an opinion of the witness,and not a statement of facts,and moves the court to exclude the answer from the record for that reason.
A:-(continued) We bought the property and paid for it,and I have had proper deeds to it for quite a number of years,-for twenty years I suppose it has been ours,and we have had deeds to it.
628 Q:-By what authority do you claim this property down here known as the temple property or lot?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial,not proper re-direct examination and calls for an opinion of the witness.
A:-Well that is it.
629 Q:-Now you have been inquired of as to your authority. Now what authority do you claim for your exercise of the rights of ownership over that property?
Counsel for the plaintiff objects to the question for the reasons above stated.
A:-By being the legal trustee of the church.
630 I wish you would explain how you,-in whose authority you claim it,or under whose authority,-as the successor of whom? A:-Of Granville Hedrick.
631 Q:-Do you claim any authority that Granville Hedrick did not possess? A:-No sir.
632 Q:-In speaking of this Chuech of Christ,concerning which you have testified,explain whether you mean a particular organization or not?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,and immaterial,and not proper re-direct examination.
633 Q:-Explain whether you mean a particular organization or not? A:-Why certainly I do.
634 Q:-What organization do you meam? A:-The organization here at Independence and no other.
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is leading,incompetent,irrelevant and immaterial,and the answer is objected to for the same reason and the court moves to strike the same from the record.
635 Q:-Well then if you claimed it by reason of the fact that you were,-because you claimed your church to be

the successor of the original church, organized in 1830, did that express your meaning?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and not proper re-examination and is leading.
A:-Well if you want me to explain what I meant I will try and do so. I will do the best I can.
636 Q:-Well do so? A:-We claim that we are members of the church that was organized in 1830.
637 Q:-Upon what do you base that claim? A:-Well because of our claim,-because of our belief in the doctrines that were taught by that church, and we as a part and parcel of the church that purchased this property. That is the way we claim it.
638 Q:-Don't you claim it primarily because you have purchased it and paid for it?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading and immaterial.
A:-Yes sir.
639 Q:-That is the reason you claim it? A:-Yes sir. I don't see how we can have any other claim to it.
640 Q:-The claim that you have to it is based upon the purchase of it, is evidenced by the deeds that you have introduced in evidence here is it not?
A:-Yes sir.
Counsel for the plaintiff objects to the question for the reasons above stated.
A:-Yes sir.
641 Q:-You base your claim upon the deeds that have been put in evidence here from the parties that were members of your church,-that is the basis upon which you base your claim as well as upon the claim that your church is the true church in succession from the original church?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is irrelevant and immaterial and leading, and on the further ground that it is not re-examination and is suggestive of the answer desired.
A:-Yes sir. From the deeds that we have in our possession.
642 Q:-That is the ground upon which you base your claim?
Counsel for the plaintiff objects to the question upon the ground that it is ~~not~~ cross examination.
643 Q:-I have the right, as I consider it, to cross examine this witness upon matters brought out by the plaintiffs which was not proper cross-examination. You went into it in a manner that makes your cross ex-examination, so called, of this witness in reality examination in chief, ~~[illegible]~~ and I take it I have the right to cross examine him upon these matters. He was asked questions concerning matters which were not referred to in the examination in chief, and for that reason I insist I am examining him properly.
By Mr. Kelley,-"All of which the counsel for the plaintiffs deny, and assert that when he examined this witness in cross examination he claimed he was the trustee,-that is the witness did,-of the church, and the plaintiffs at the time claimed that they had the right to examine the witness with reference to what church he claimed to be the trustee for, and find out all about it. And the plaintiffs further deny that their cross examination of this witness made him their witness, or that their examination partook of the nature of direct examination."

By Mr.Southern,-
644 Q:-Well we will let the Court determine this matter. Now Mr.Hill you have been asked about where you obtained the money expended for this property in the payment of taxes and other ways?
A:-Yes sir.
645 Q:-I will ask you if you got any of it from the re-organized church?
Counsel for the plaintiff objects to the question asked the witness for the reasons last stated.
A:-No sir.
646 Q:-You did not get any of it from the re-organized church,-the plaintiff in this suit?
By Mr.Kelley,-"I object to that on the further ground because I asked him who contributed for the expenses of this suit."
By Mr.Southern,-
647 Q:-And you asked the other question too. I think you did. Well let the record stand as it is,-it satisfies me if it satisfies you,gentlemen. Now are you cognizant of where any of the money was obtained that purchased this property as shown by the deeds in your possession?
Counsel for the plaintiffs objects to the question on the ground that it is incompetent,irrelevant and immaterial and not re-examination.
A:-I know where some of it came from.
648 Q:-Well where did it come from? A:-I paid some of it myself.
649 Q:-Can you state as a matter of fact where it came from,-that is with reference as to whether or not the re-organized church,the plaintiff in this suit ever paid any of it?
Counsel for the plaintiff objects to the question for the reasons above set forth
A:-I have no knowledge that they ever did.
650 Q:-In answer to a question asked you by the plaintiffs you spoke about the successorship from what you termed the"original church" established in 1830. Now will you please state to the reporter how far you hold to the doctrines of the original church,-in what years of his history?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial,and not re-examination.
651 Q:-From what time? A:-We believe in and hold to the doctrines of the original church at least to '88 or '84.
652 Q:-Now then you have been inquired of here as to whether you claim successorship from the original church,-do you have any claim of successorship from the original church after that time?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is irrelevant and immaterial,leading and not re-examination."
A:-No sir.
Counsel for the plaintiffs moves the Court to exclude the answer of the witness for the reasons above set forth.
653 Q:-Is it not a fact that you repudiate the original church after that time?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A:-Yes sir.
654 Q:-As it existed from the years '84 and '85 or about that time?

Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.
A:-Yes sir.
655 Q:-Now the question I asked you is whether or not you repudiated the church as it existed in '84 or '85 or after that time,-whether or not you repudiated the general organization of the church after the years 1884 or '85?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,leading and not re-examination?
A: Yes sir. We repudiated the doctrines that were taught in many senses after '84.
656 Q:-Now when you have spoken of the original church here,have you spoken of the general organization or the special organization,or of the local organization?
Counsel for the plaintiff objects tot the question for the reasons above set forth.
A:-I don't know as I understand the question about repudiation. Am I to understand it like this,-that the doctrines after that time that we repudiated is repudiated in the general organization? Is that the way I am to understand it?
657 Q:-Well I don't know that I understand what you mean? I will ask you what you understand the organization of the church to be? A:-Well the general organization and the local organization.
658 Q:-Well now have you any general organization here?
Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.
A:-Yes sir.
659 Q:-You have a general organization here? A:-Yes sir.
660 Q:-Well,what that organization comprise? A:-It comprises the members of the church in different parts of the country,wherever they may be.
661 Q:-It comprises the membership of the church in different places? A:-Yes sir.
662 Q:-Different sub-divisions of the church,you mean? A:-Yes sir.
663 Q:-The whole of which comprises the general organization? A:-Yes sir.
664 Q:-Now where are they that belong to your church? A:-Well there is one out at Bonner Springs,and there is another in the Indian Territory,-I don't know just what places they are,but it is down there in the Indian Territory somewhere.
665 Q:-Is that all there is? Q:-No sir,there is scattered members of the church in different parts of the country,that belong to the general organization of the church.
656 Q:-Then what is a local organization of the church?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial,and not proper re-examination.
A:-Well we are a local organization here at Independence.
667 Q:-Where are you a general organization?
Counsel for the plaintiff objects to the question for the reason above stated.
A:-What is that?
668 Q:-Where are you a general organization? A:-In the different parts of the country.
669 Q:-How are you organized generally?
A:-How am I to understand the

question? I don't hardly know how I am to answer the
questin, or what I am to answer.
670 Q:-What do you understand by the local organization
in 1830? A:-Well it was an organization of just a
few members.
671 Q:-It was an organization of just a few people?
A:-Yes sir.
672 Q:-How many? A:-Well that I don't know, but it was
probably just four or five or six.
673 Q:-What do you understand by a general organization
after that time,-that is after 1830?
Counsel for the plaintiff objects to the question asked
the witness on the ground that it is not re-examina-
tion, and is irrelevant and immaterial, and calls for
an opinion of the witness.
A:-The church became enlarged,-that is its member-
ship became enlarged, and its members were not all in
one place, for they were scattered abroad in different
parts.
674 Q:-Now which was it? You said you repudiated the or-
ganization that existed after '34 or '35,-now which
is it that your church repudiates here,-the general
organization or the local organization?
Counsel for the plaintiff objects to the question asked
the witness on the ground and for the reason that it
is incompetent, irrelevant and immaterial, and not re-
examination, and is leading.
A:-The general organization.
675 Q:-Now in the management and control of the church
property here in Independence, do you understand that
the property belongs to the local organization or to
the general organization?
Counsel for the plaintiff objects to the question for
the reasons above set forth.
A:-To the local organization, of course.
676 Q:-That is what you mean to be understood as saying
when you refer to the term, local organization?
A:-Yes sir. Certainly. Of course.
677 Q:-And not to any general organization? A:-No sir. I
do not mean that it belongs to the general organiza-
tion, but to the local organization.
678 Q:-Now in testifying here that the property belongs
to the church of Jesus Christ, do you wish to be un-
derstood as saying that it belongs to any general
organization of that church?
Counsel for the plaintiff objects to the question asked
the witness on the ground that it is leading, incom-
petent, irrelevant and immaterial, and not proper re-
examination.
A:-No sir.
679 Q:-You do not wish to be so understood? A:-No sir.
Counsel for the plaintiff objects to the question for
the reasons above set forth, and moves the court to
exclude the answer of the witness from the record
for the same reasons.
680 Q:-You have been asked by plaintiff's counsel to say
whether there was any bounds specified,-specified
bounds to the membership of the local organization
,-your brethren,-and you have answered that there
was a limit? A:-Yes sir.
681 Q:-That you were governed by a limit as to distance?
A:-Yes sir.
682 Q:-And whether or not there was a geographical limit?
A:-Yes sir.
683 Q:-And you testified that that geographical limit
was prescribed by the action of the church here?
A:-Yes sir.
684 Q:-You have answered all that? A:-Yes sir.

685 Q:-How do you claim that there was any authority that you recognized that authorizes the limitation of the bounds of a local branch?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A:-I think so.
686 Q:-Well is there? A:-I think so. I don't think we would have assumed to do so unless there had been authority for it.
687 Q:-That is all?
Re-cross examination by P.P.Kelley,-
688 Q:-Now I believe you stated that there was a general organization of the defendant church? A:-Yes sir.
689 Q:-Also a local organization? A:-Yes sir.
690 Q:-That is what you stated? A:-Yes sir.
691 Q:-Are you the trustee of the general organization? A:-No sir.
692 Q:-Do you say you are not the trustee of the general organization? A:-Yes sir.
693 Q:-Well what are you the trustee of? A:-Of the local organization.
694 Q:-Well now let me see about that? Are you the bishop of a general organization? A:-I don't know whether I was made the bishop of the general organization or of the local organization. I can't say how that was. That is a question I am unable to answer.
695 Q:-You can't say whether you are the bishop of the general organization or the local organization? A:-No sir.
696 Q:-You say you don't know how to answer that question? A:-No sir.
697 Q:-Well you know whether or not you are the bishop of the general organization don't you? A:-Well I expect I am.
698 Q:-You expect you are the bishop of the general organization? A:-Yes sir.
699 Q:-Well are you the trustee of the general organization too? A:-I expect so.
700 Q:-Who are the other officers of the general organization? A:-I don't know of any but the elders.
701 Q:-There is yourself and some of the members and elders that you named in your examination this morning? A:-Yes sir.
702 Q:-Is that all? A:-I know of no others.
703 Q:-And the same officers that belonged to the general organization are the officers of the local organization,are they not? A:-No sir,I reckon not.
704 Q:-You reckon not? A:-No sir.
705 Q:-Well who is there that belongs to the general organization that does not belong to the local organization? A:-Well Cole belongs to the general organization and he does not belong to the local organization.
706 Q:-Who is the president of the ~~local~~ general organization?
A:-I don't know of any specified president of the general organization.
707 Q:-How is the general organization made up?
A:-What is that?
708 Q:-How is the general organization made up?
A:-How is it made up?
709 Q:-Yes sir? A:-I don't know how to answer that question.
710 Q:-Well what constitutes the general organization?
A:-The members of the church.
711 Q:-The members of the church constitute the general organization? A:-Yes sir.
712 Q:-Where are they? Are there any members of the defendant church outside of Jackson County,Missouri?
A:-Yes sir.
713 Q:-Well where are they,-or any of them? A:-There is some at Bonner Springs.

714 Q:-Well how many are there? A:-At Bonner Springs?
715 Q:-Yes sir? A:-I think there is ten,or eleven or twelve,-somewhere along there.
716 Q:-You say there is 10 or 11 or 12 members of the defendant church there at Bonner Springs?
A:-Yes sir,I think so,but I don't know just how many there are there. I don't remember just how many there is there.
717 Q:-Did you not say that there was some in the Indian Territory? A:-Yes sir.
718 Q:-Well how many is there in the Indian Territory?
A:-I believe there is nine or ten. I think there is that many there.
719 Q:-When was the organization at Bonner Springs effected? A:-When was it effected,did you say,or how was it effected?
720 Q:-When was it effected? A:-I think about two or three years ago as well as I remember.
721 Q:-Was not the organization there effected last year,-in 1891,-was not that the time that that organization was effected? A:-I don't remember,but I think it was before that,though I don't remember.
722 Q:-You cannot say just what time the organization at Bonner Springs was perfected? A:-No sir.
723 Q:-Well what time was that branch in the Indial Territory organized? A:-Well I think it was about a year ago,or a year and a half or two years ago as well as I can remember now,but I can't be positive as to the time it was organized.
724 Q:-How you say there is 10 or 11 members there at Bonner Springs? A:-Some where about that number,-I think it is 12 or 18. I could not as I said before state positively the number.
725 Q:-Where about in the Indian Territory is that organization of the church located? A:-That I can't tell you.
726 Q:-You don't know then where it is? A:-I can't state the county.
727 Q:-Do you know whether there is any organization there or not? A:-Yes sir.
728 Q:-You are positive there is an organization there?
A:-I am.
729 Q:-Who is the president of that organization?
A:-I don't remember his name.
730 Q:-Who presides over it? A:-I think his name is Clarke.
731 Q:-Is he the trustee? A:-No sir,I think he is the president.
732 Q:-Who is the trustee? A:-I don't know. I don't know that they have any.
733 Q:-Well do you know who is the bishop of that organization in the Indian Territory? A:-I don't know.
734 Q:-Who is the president? A:-I don't know.
735 Q:-Did you not say that Clarke was the president?
A:-No sir,I said I thought he was the president,if there was one at all. I am not positive,but I think he is the presiding officer,but I may be mistaken about that.
736 Q:-How did you come to get any information about that branch or organization down there? A:-In the Indian Territory?
737 Q:-Yes sir? A:-Well we have elders who go down there preaching and they bring the reports back.
738 Q:-Who gets these reports? A:-I don't know what you mean.
739 Q:-Well do you as bishop get them? A:-It was reported to the conference.
740 Q:-Who reported it? Was it Franklyn? A:-No sir,it was G.D.Cole that reported it. He is the man who reported it.

741 Q:-Was he in the Indian Territory preaching?
A:-Yes sir.
742 Q:-Was there any one with him at the time?
A:-I don't know.
743 Q:-Was he there with Franklyn? A:-No sir. He was not there with him.
744 Q:-Do you swear positively that they were not there at the same time? A:-Well I don't know about that, but I think they were not there together. They may have been,but it is my impression that they were not.
745 Q:-Then you do not know whether they were there together or not? A:-No sir,but I don't think they were there together.
746 Q:-What nation were they in down there? A:-If I understand it correctly they were in what is called the Cherokee nation. I think that was the nation,or some such a name as that. I can't speak the name properly,but it was some such a name as that.
747 Q:-So the members of the defendant church down there are Indians,or are they Americans? A:-Some of them were,-are Indians,-I don't know whether any of them are Americans.
748 Q:-You don't know whether there is a general president of these churches down there? A:-No sir,other than I learn from the reports,and I learn from that source that they have a presiding officer down there that they call a president.
749 Q:-Did your church ever have any general conference? A:-Yes sir.
750 Q:-Who is the presiding officer? A:-Over the general conference?
751 Q:-Yes sir? A:-They make a presiding officer when they come together.
752 Q:-Who has he been,-who was it? A:I believe I have been,or Mr.Hall. Mr.Hall has been the presiding officer I believe at different times.
753 Q:-Well was the officer presiding and in control this last spring when you held your conference was he not? A:-Yes sir.
754 Q:-And he was this last October? A:-I believe he was.
755 Q:-And the April before in '81? A:-I believe he was.
756 Q:-For what makes you say he is not the general presiding officer,-the general president of the church? A:-Well unless he is so by virtue of the fact that he is the president of this branch,-if that makes him President of the conference ~~xxxxxxxxx~~ why he is the President,but the conference selects its presiding officer,and I think he was chosen because he was the president of this branch here.
757 Q:-Well you are the general bishop of the church here aint you? A:-I am supposed to be.
758 Q:-Well there is no bishop but yourself that you know anything about in the church? A:-No sir.
759 Q:-And there is no other President of the church that you know anything about except C.A.Hall,is there? A:-No sir,not that I know anything of.
760 Q:-You are the only bishop in the church and he is the only president that you know anything about? A:-Yes sir,I expect so.
761 Q:-Now on your re-direct examination,you stated that you repudiated the general organization of the original church after 1833 or '4 or '5 or some where along there? A:-Yes sir,but I don't think it went that length,-that is not exactly what I meant to say.
762 Q:-Well what did you mean to say? A:-I meant to say that we repudiated the doctrines taught by the church in general. That is the way I meant to be understood as speaking?
763 Q:-Well then you do not repudiate the organization of the church,but simply repudiate its doctrines? A:-Well I don't know how you blend it together.

764 Q:-Well that is for you to say? A:-Well I don't know how you would blend it together,-whether that would be repudiating the general organization or repudiating the doctrines of the church that were taught in the church. I don't understand how you could combine that,but that is my understanding of it sir.
765 Q:-Well that is for you to say? A:-Well I don't know how to explain it. That is my understanding of it however.
766 Q:-Now you said you were baptized into the original church in 1848? A:-Yes sir. ~~I was baptized in '48 as near as I can remember now.~~ 767 Q - I did I tell you
768 Q:-How did the elder who baptized you,repudiate the doctrines of the original church?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is immaterial.
A:-I don't know.
769 Q:-Well when did you first repudiate them?
A:-What?
770 Q:-The doctrines of the original church? A:-When I began to understand what it was,and when I began to learn from the books and learn that the teachings of the church were contrary to the teachings of the books,then I repudiated it.
771 Q:-Well when was that? A:-I don't know what the date was.
772 Q:-Was that not after 1863? A:-Yes sir.
773 Q:-How do you know it was not? A:-I know that I examined the books long before that time?
774 Q:-Did you repudiate the doctrines and teachings of the original church before that time? A -Yes sir.
775 Q:-That is before 1863? A:-Yes sir.
776 Q:-Well how long before that time did you repudiate them?
Counsel for the defendants objects to the question for the reasons above set forth.
A:-Well I don't know,but it was earlier than that.
777 Q:-Was it as early as 1850? A:-No sir.
By Mr.Southern,-"I object to that as not consistent with any rule or theory of cross examination."

By Mr.Kelley,-
778 Q:-Then you were baptized in 1848 by an elder of the original church,and then in 1850 you repudiated the original church? A:-Repudiated what?
779 Q:-Repudiated the church doctrine or organization?
A:-I did not say that.
780 Q:-Well you repudiated some of it? A:-Yes sir.
781 Q:-You repudiated all of it that was given after 1834 or 1835? A:-I said that I repudiated certain doctrines that were taught after '34.
782 Q:-What were they? A:-I can't tell you all of them.
783 Q:-Still the man that baptized you,he believed in those doctrines that you repudiated? A:-I don't know.
784 Q:-Well he taught them to you before you were baptized did he not? A:-Yes sir.
785 Q:-Did not the organization to which he belonged,and into which he baptized you teach them? A:-Teach what?
786 Q:-The same things which you repudiated in 1850?
A:-I never heard of them,for he taught me the principles of the gospel,and that is

764 Q:-Well that is for you to say? A:-Well I don't know how you would blend it together,-whether that would be repudiating the general organization or repudiating the doctrines of the church that were taught in the church. I don't understand how you could combine that,but that is my understanding of it sir.
765 Q:-Well that is for you to say? A:-Well I don't know how to explain it. That is my understanding of it however.
766 Q:-Now you said you were baptized into the original church in 1846? A:-Yes sir. ~~I was baptized in 1846 as near as I can remember now.~~
768 Q:-Now did the elder who baptized you,repudiate the doctrines of the original church?
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778 Q:-Then you were baptized in 1846 by an elder of the original church,and then in 1850 you repudiated the original church? A:-Repudiated what?
779 Q:-Repudiated the church doctrine or organization?
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780 Q:-Well you repudiated some of it? A:-Yes sir.
781 Q:-You repudiated all of it that was given after 1834 or 1835? A:-I said that I repudiated certain doctrines that were taught after '34.
782 Q:-What were they? A:-I can't tell you all of them.
783 Q:-Still the man that baptized you,he believed in those doctrines that you repudiated? A:-I don't know.
784 Q:-Well he taught them to you before you were baptized did he not? A:-No sir.
785 Q:-Did not the organization to which he belonged,and into which he baptized you teach them? A:-Teach what?
786 Q:-The same things which you repudiated in 1850?
A:-I never heard of them,for he taught me the principles of the gospel,and that is

all that he taught me.

787 Q:-And he did not teach you anything else? A:-No sir, he taught me the principles of the gospel,and that is all,and whether he knew anything else,or taught any body else any other thing than that I don't know anything about that. I know what he taught me and that is all that I do know about it. Whether he knew anything else or taught anything, else I don't know anything about that.

788 Q:-Well he taught you in 1842 that the church was organized with a President,did he not? A:-No sir, he never taught me anything of the kind.

By Mr.Southern,-"All of which is objected to as not being admissible under any theory of examination, direct or cross."

By Mr.Kelley,-

789 Q:-Did the person that baptized you teach the doctrine that was contained in the book of doctrine and covenants? A:-I don't remember.

790 Q:-Well what is your best recollection about it? A:-I don't remember now about his saying anything whatever about it. He may have done so,but if he did I do not recollect it.

791 Q:-Well what did he teach you? A:-He just taught me the first principles of the faith as we understand now,which were faith,repentance and baptism.

792 Q:-Did he teach the book of Mormon? A:-No sir,and I dont know that we had the book of Mormon.

793 Q:-You don't know then what he taught you? A:-Yes sir-he taught me the first principles,faith, repentance and baptism,-that is what we call the first principles,and that is what he taught me.

794 Q:-Do you repudiate the book of Mormon alone, with the rest that you repudiate? A:-No sir.

795 Q:- The defendant church then,holds to the book of Mormon entirely? A:-Yes sir.

796 Q:-It does? A:-Yes sir.

797 Q:-Does the defendant church hold to the bible also? A:-Yes sir.

798 Q:-Entirely? A:-Yes sir,we look to it and accept it as a part of our faith.

799 Q:-Did the person who baptized you teach you before your baptism that there was a prophet connected with the church? A:-Yes sir.

Counsel for the defendant objects to the question on the grounds above set forth.

800 Q:-He taught you that there was a prophet connected with the church? A:-Is that the question you asked me before?

801 Q:-Yes sir? A:-No sir,I made a mistake in answering it for I did not understand it. I don't recollect that he said anything about it at all.

802 Q:-Did you hear him say anything about Joseph Smith?

Counsel for the defendants objects to the question for the reasons heretofore given.

A:-No sir,I don't recollect that he did.

803 Q:-He never said a word about Joseph Smith?

A:-No sir,I don't remember that he did.

804 Q:-Was he a Methodist preacher?

Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial.

A:-No sir,not that I know of.

805 Q:-Well was he a Baptist preacher?

Counsel for the defendants objects to the question for the reasons above set forth.

A:-What is the question?
806 Q:-I asked you if the man that baptized you was a Baptist preacher? A:-No sir,not that I know of.
807 Q:-What kind of a preacher was he? A:-A preacher of righteousness.
808 Q:-Well what was he? A:-That was what he was.
809 Q:-Well what did he call himself? A:-An elder.
810 Q:-An elder in what church? A:-The church of Christ, or of Jesus Christ,-I don't remember nor exactly what words ~~XXXXXXXXX~~ he used.
811 Q:-Was it not the church of Jesus Christ of Latter Day Saints? Is not that that the title of the church was of which he was an elder? A:-Not that I remember of.
812 Q:-Will you swear it was not? A:-No sir,I won't swear anything about it positively,for I don't remember that it was positively.
813 Q:-Don't you know it was the church of Jesus Christ of Latter Day Saints? A:-[illegible]
814 Q:-Don't you know he was a member,-an elder sent from that church which I have designated,by a general conference on a mission? A:-Don't I know who was sent?
815 Q:-This elder who baptized you? A:-He was supposed to be an elder. That is what he said he was.
816 Q:-And was he not sent from a general conference of that church? A:-I don't know anything about it. I don't know whether he was or not,for he did not tell me anything about it one way or the other.
817 Q:-What conference was it in England? A:-What conference?
818 Q:-Yes sir? A:-Where?
819 Q:-I said in England? A:-I don't remember any conference there,for I did not stay there long after I was baptized.
820 Q:-Well how long did you stay? A:-Well I came to this country in the fall of '49.
821 Q:-And when was it you were baptized? A:-In '46.
822 Q:-At what time in '48 were you baptized? A:-I could not state the month.
823 Q:-Where did you go to first when you came to this country?
Counsel for the defendants objects to the question asked the witness on the ground that it is incompetent,irrelevant and immaterial,and not proper cross examination.
824 Q:-Answer the question? A:-Where did I go to,-is that the question you asked me?
825 Q:-Yes sir. Where did you go to first when you came to this country? That is,that place in this country did you first go to? A:-Where did I first live?
826 Q:-Yes sir?
Counsel for the defendant makes the same objection as above set forth to all of this examination.
A:-I can answer the question.
827 Q:-Well go on and do so? A:-I first came to New Orleans and stayed there a while.
828 Q:-That is when you first landed in this country? A:-Yes sir.
829 Q:-Then where did you go? A:-To St.Louis.
830 Q:-Then where? A:-From there I went to Wisconsin.
831 Q:-From St.Louis you went to Wisconsin? A:-Yes sir.
832 Q:-Well how long did you live in Wisconsin? A:-Some where about twenty years as near as I can remember it.
833 Q:-Did you go direct from St.Louis to Wisconsin? A:-Yes sir.

834 Q:-Did you stop at Nauvoo any time? A:-No sir.
835 Q:-You did not stop at Nauvoo? A:-No sir.
836 Q:-You stopped nowhere in Illinois? A:-No sir,I did not stop anywhere to make a stay,but I might have stopped a night or so when I was traveling.
837 Q:-Then you went directly from St.Louis to Wisconsin and did not stop at Nauvoo or any other place in Illinois for any length of time? A:-No sir,no more than a night or two when I was traveling.
838 Q:-What was the name of the place in which you lived in Wisconsin when you were residing in that state? A:-It was at a place by the name of Eagle.
839 Q:-What county is that in? A:-Waukoshaw county,I believe. I think it was in Waukoshaw county. I believe that is that they called it.
840 Q:-Were you connected with any church there? A:-No sir.
841 Q:-You did not join the church there? A:-No sir,for there were no members of the church around there that I knew anything of.
842 Q:-Were you connected with any church at all at that time? A:-What church?
843 Q:-Any church at all? A:-I was a member of the church that I had been baptized into.
844 Q:-That was the church that was organized in 1830? A:-Yes sir. I was a member of the church from the time I was baptized during all the time,but when I was livin, there at that place in Wisconsin I did not stay or identify myself with any particular branch or body of the church,for there was none of them there,but nevertheless I counted myself a member of the church.
845 Q:-Where was the church at that time? A:-That church?
846 Q:-The church that was organized in 1830? A:-I don't know where it was.
847 Q:-Was there any church? A:-Yes sir.
848 Q:-There was a church but you say you did not know where it was? A:-No sir. It was scattered all over in different places,I understood,-that was my understanding of it.
849 Q:-And you don't know where it was? A:-No sir. I don't know where it was further than that. I know there were no parts of it any where near where I was.
850 Q:-Then you don't know whether you were a member of any church or not? A:-No sir,I don't know anything positively about it,but I reckon that I was a member of the church all the time. I reckon there is no doubt about that,but I did not belong to any branch, division or body of the church at that time,for it was scattered abroad in many places.
851 Q:-Now you say you "reckon you were a member of the church"? A:-Yes sir.
852 Q:-Where was the church then,if it was in existence at all,that you belonged to? A:-At that time?
853 Q:-Yes sir? A:-I stated that I did not know,but I supposed it was in the different parts,scattered abroad,and I was not attached to any particular branch of it.
854 Q:-It just consisted of straggling members,scattered abroad all over the country? A:-That is what I said, and for aught I know that was so. I knew there were no members where I was that I associated with.
855 Q:-So then you claim that the church here in Independence is just a branch of the general church?

856 Q:-Is that what you claim?
Counsel for the defendants objects to the question on the ground "because he has not claimed any such a thing."
857 Q:-What is your answer? A:-I don't claim that.
858 Q:-Is that your answer? A:-I can't answer that question.
859 Q:-Then you don't claim this is the general church? A:-No sir.
860 Q:-You are positive as to that? A:-Yes sir.
861 Q:-Well then do you claim that it is a branch of the general church? A:-I can't say.
862 Q:-Well I would like you to give an answer to that question? A:-I don't hardly know how to answer that question?
863 Q:-Why? A:-I can't tell why, as I know of.
864 Q:-Then you acknowledge that you don't know anything about it? A:-I understand that it is a part and parcel of the church that was organized in 1830, but I don't know how you would apply the connection between this and the original church. I know how we claim it is, and we claim it is a part and parcel of the original church that was organized in 1830, but just how it is I can't explain.
865 Q:-Have you not frequently, here in Independence, both publicly and privately stated that this was a branch of the original church, and nothing more? A:-I don't know what I have said, but I don't think I ever said that for I never meant to be understood that way.
866 Q:-Do you say you did not say that? A:-I may have said that we as a people here claimed to be a part and parcel of that church that was organized in 1830 meaning to teach and practice the doctrines and belief of the church as they were taught and practiced in the original church at that time.
867 Q:-Do you claim to be the whole church or just a part of it?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is not cross examination, irrelevant and immaterial, and calling for an opinion of the witness.
A:-Well if you dissect it that way, it would be so. I don't know what you mean though.

A:-Well I don't think we are the whole church.
868 Q:-Well do you claim or believe that you are a part of it?
Counsel for the defendants objects to the question asked the witness on the ground and for the reason that it is not cross examination, irrelevant and immaterial, and calling for an opinion of the witness.
A:-Well if you dissect it that way it would be so. I don't know what you mean though.
869 Q:-Well you do not claim that these ten or thirteen members out here at Bonner Springs is the whole church, ~~XXXXX~~ of course? A:-No sir.
870 Q:-You do not set up any such a claim on their account? A:-No sir, and I did not say I did.
871 Q:-Well what do you call them? Do you call them a branch? A:-Yes sir, just a branch I believe.
872 Q:-And you do not claim that the few members you have here in Independence constitutes the whole church, do you? A:-No sir.
873 Q:-Well it is called a branch too, is it not? A:-Well I really do not know what is the proper way to designate these things, but that is probably so.
874 Q:-Now the church here at Independence is a branch then? A:-I can't say. If you choose to call it that, do so, I have no objection.
875 Q:-Well if it is a branch, was it not a branch before the organization of the branch down at Bonner Springs? A:-Well I reckon that is so.
876 Q:-What was it a branch of? A:-I don't know.
877 Q:- Was it not a branch of the original church?

A:-The original church that was established in 1830?
878 Q:-Yes sir? A:-Yes sir,for if believing in the same doctrines would make it that,it could probably be called that.
879 Q:-Well is that not what it would be? A:-I reckon so.
880 Q:-So that the church here in Independence is a branch of the church that was organized in 1830 by Joseph Smith,the seer? A:-If we believe in the principles of the same doctrines that he taught at that time,and to claim to do that,why then it might be called a branch,but as I said before I do not know how to designate these terms,for I am not a lawyer, nor yet a - a scholar.
881 Q:-Then do I understand you to say that the defendant church here in Independence is a branch,and as a branch accepts and believes in and teaches and practices the tenets,doctrines and beliefs that was taught and practiced by Joseph Smith in the church organized in the year 1830,by Joseph Smith the seer? A:-Please state that again so I can understand it.
882 Q:-I asked you if I understood you to say that the defendant church,-that is the church here at Independence,of which you are a member and the bishop, is a branch of the church organized in 1830 by Joseph Smith,and as a branch of that church accepts and believes in and teaches and practices the same tenets,doctrines and beliefs that were taught and practiced in the church organized in the year 1830 by Joseph Smith,the prophet and seer? A:-Yes sir,to a limited extent.
883 Q:-To what extent? A:-We believe in the doctrines that were taught in the church in the first two or three years after its organization,but then after that we claim that it fell away from grace,and we do not follow it in its apostacy. We believe in what it taught in the first two or three years after its existence,but we do not believe in all that it taught right along,and don't accept that by any means.
884 Q:-Then you repudiate what the church taught after the first two or three years of its existence? A:-Yes sir.
885 Q:-When was that repudiation made? A:-Why we have made it at least from the year fifty and perhaps before that. I was not with the church,-that is I was not present at the time that the first repudiation was made,but I understand that it was as early as the year '50 and perhaps earlier.
887 Q:-What did you do towards repudiation, anything before the year 1850? A:-What did we do?
888 Q:-Yes sir? A:-We declared our disbelief of some of the doctrines that were taught and advocated.
889 Q:-You were an elder in the church in 1849,were you not? A:-No sir.
890 Q:-You were not an elder in 1849? A:-No sir.
891 Q:-Well you were a priest,were you not? A:-Yes sir.
892 Q:-How often did you meet at that time that belonged to the church? A:-Oh,I can't tell,that was so long ago.

By Mr.Southern,-"All this line of examination is objected to because it is not justified by any rule of examination,direct or cross,or of re-examination, therefore it is objected to."

By Mr.Kelley,-
893 Q:-With whom did you meet in 1849,if any body,that is in church fellowship? A:-I don't remember,it has been so long ago that I can't remember who I met.

894 Q:-Did you meet with any branch of the church?
A:-No sir.
895 Q:-Did you meet with anybody? A:-Yes sir.
896 Q:-Well how did you meet with them? A:-I met with them as individuals,-not with them as members of the church.
897 Q:-Where was that? A:-In St. Louis.
898 Q:-What church did they claim to be members of?
A:-I don't remember.
899 Q:-You don't remember what church they belonged to?
A:-No sir,but I suppose it was to the church,-the Mormons.
900 Q:-Well at that time did you repudiate the doctrines of the church organized in 1830,or any part of them?
A:-I did a part after that.
901 Q:-Did you repudiate the doctrines of the church?
A:-Some of them. Not understanding me, I don't repudiate the doctrines that were taught in 1830. I do not repudiate the doctrines that were taught in '31 or '32 or '33,but after that time there was doctrines introduced in the church which I repudiate. There was doctrines after that time that came forth that I repudiate myself individually as well as with others, and never accepted them at all.
902 Q:-Granville Hedrick was an elder in the church in 1848,was he not? A:-I don't know.
903 Q:-He was an elder in the church about that time wasn't he? A:-I don't know personally whether he was or not.
904 Q:-Tell you know from reading don't you? A:-Yes sir, that is what I have heard,but I don't know of my own knowledge whether he was or was not.
905 Q:-Is this party that organized the repudiation of the doctrines that you have been talking about,is he not? A:-I don't know that he organized any repudiation.
906 Q:-Well he was the leader of the party that repudiated [illegible] was he not?
A:-I don't know that he was. I think there was people repudiated these doctrines before they knew anything of him. I don't [illegible] him. I don't [illegible] to that.
907 Q:-Did the articles that repudiated those abominable doctrines before they knew anything of him?
A:-I [illegible] of them. I repudiated those doctrines before I knew anything of him.
908 Q:-[illegible],-that is you repudiated those doctrines before you knew Granville Hedrick?
A:-[illegible] sir.
909 Q:-You repudiated them before you came to this country,did you or not? A:-No sir,long before I came to this country I did not.
910 Q:-Did you publicly repudiate "Brighamism"?
By Mr. Tarpley,-"We have argued that question repeatedly,-not in that form perhaps,but in various other forms,and I object to it because you have no right to ask any of these questions under the issues joined in this case at this stage of the examination."
By Mr. Kelley.-
911 Q:-Answer the question? A:-What is the question?
912 Q:-Did you "Brighamism" that you repudiated was it not? A:-Repudiated "Brighamism",-I don't know,-I don't understand what you mean by "Brighamism." I thought I stated plainly that I repudiated as an individual that I repudiated those doctrines that I found were taught by various parties claiming to be the church wherever I found them.
913 Q:-Well was not it an Brighamite elder that baptized you in 1848? Was it not an elder in the Brighamite church that repudiated you at that time?
A:-I don't know.

been taught to gather here in this country,-we called it "gathering to Zion."

933 Q:-And you received that teaching from the book of Doctrine and Covenants? A:-No sir.

934 Q:-Well you received it in part from the book of Doctrine and ~~XXXXXXXXXXXXXXXXXX~~ Covenants,did you not? A:-No sir,I don't know that I did.

935 Q:-Did you not receive it in part from the book of Doctrine and Covenants? A:-No sir,I don't know that I received it at all from it. It was taught to me from boyhood, preached to me and from what other information I could get in one way and another.

936 Q:-Well was it from it, or preached to you by members of the original church? A:-What?

937 Q:-Was the Latter Day Saints going to gather here at Independence or to Zion as it was called? A:-Well yes,I expect they were.

938 Q:-Will you read the book of Doctrine and Covenants for you are here to Independence,are you not? A:-Before I came to this court?

939 Q:-Yes sir,but it was say if you were to do so? A:-Yes sir.

940 Q:-To what extent had you read it? A:-Well I had read it, so o.

941 Q:-Had you read the revelation in there with reference,-the revelation given in July 1831 with reference to certain property,-temple property here in Independence or in Jackson County? A:-Yes sir.

942 Q:-You have read that? A:-Yes sir,I reckon I had read that.

By Mr.Sloan,-"Not that is objected to for the same reason stated in the last objection."

By Mr.Colley,-

943 Q:-And when you came here you went and tried to find that particular property,did you not? A:-Yes sir,it was here plain enough to be seen.

944 Q:-I refer to that particular property that was spoken of referred to in that revelation? A:-Well I did not have to try to find it,for it was here plain enough to be seen,-it was plain enough to be seen in it. Was no particular trouble to find it.

945 Q:-Who showed it to you? A:-The temple property?

946 Q:-Yes sir? A:-I found it myself.

947 Q:-Did you find it yourself? A:-Well I came up right by it then I came up from the depot.

948 Q:-How did you know it? A:-In various ways.

949 Q:-Well state some of the various ways in which you knew it? A:-The people that were here before me told

me that that was the place that was called the "temple lot",as well as by examining it and looking for itself.

950 Q:-That you were told where it was? A:-Yes sir,I expect I was.

951 Q:-When was that? A:-That was in about '68 I think.

952 Q:-And that property is the same property on which you have your church building,is it? A:-Yes sir,it is the same place.

953 Q:-It was known as the "temple lot"; when you came here in 1868,was it pointed out to you as the temple lot? A:-It was pointed out to me as what they called the temple lot.

954 Q:-And is it not a fact that it has been known by that name over since 1868,-ever since you have been here? A:-I reckon so.

955 Q:-Ever since you have been here it has been known by that name has it not? A:-Yes sir,I reckon so.

956 Q:-Well has it not been known by that name and no

other name amongst the people here when speaking of it, would they not invariably refer to it as the temple lot, over since you have been here?
A:-Yes sir.
957 Q:-For a long time from you came here, had you heard about that? A:-About what?
958 Q:-About the temple lot? A:-I don't know how long it is.
959 Q:-Well about how long? A:-I don't know how long, also it [illegible]. I cannot remember.
960 Q:-Well give your best recollection? A:-Well I say I don't [illegible] here, and anything, I might say [illegible] I can't tell but it would be several years ago, anyway.
961 Q:-[illegible] it not [illegible] simply a [illegible]? A:-I don't remember [illegible] or not.
962 Q:-[illegible] the head quarter of the general organization of the Reorganized Church? A:-Here [illegible]?

963 Q:-[illegible] are?
Counsel [illegible] objects to the question asked the witness on the ground that it is a repetition of matters already inquired into.
A:-Well it is wherever they have a place to place it [illegible] I know.
964 Q:-Well where is it now?
Mr. [illegible],-"The witness did not say there was any place for it,-he did not say there was any headquarters for it, and it is objected to on that account."
Mr. [illegible],-
965 Q:-Where is the general head quarter of the Reorganized Church now? A:-What kind of head quarters?
966 Q:-[illegible] general church head quarters? A:-Of the organization?
967 Q:-Yes sir? A:-I don't know.
968 Q:-Has it any head quarters? A:-Not that I know of.
969 Q:-I believe that is all.
Re-cross examination by Mr. Southern,-
970 Q:-Mr. Hill do you mean to be understood as saying in this investigation, I don't care just to call it,-that has just been stated,-for I don't know how examination is, if I care not to call it in law,-do you mean to say that any church claimed this property?
A:-No sir.
971 Q:-That you mean that any church claimed the temple lot property now in controversy at the time you came here? A:-No sir, only claimed it,-that is no church claimed it.
972 Q:-Well do you want to be understood as saying that, that you came here in 1866 that any church claimed that property? A:-No sir.
Counsel for the plaintiff objects to the question asked the witness and the answer of the witness on the ground that it is not re-examination, and to it, not being asked any such question as that."
973 Q:-You say that there wasn't any such a claim made? A:-No sir, no church claimed it at all.
974 Q:-Well Mr. Gregory is trying to make that impression, or they are trying to have it understood that way? A:-Well there wasn't any church claim on it then at all.
975 Q:-Now Mr. Hill do you mean to be understood as saying that you know that any church claimed this property even as the temple lot, or called the temple lot, the property in controversy in this suit,-that any church claimed that until it was bought for your church? A:-No sir.

Counsel for the plaintiff objects to the question asked the witness on the ground that it is incompetent, irrelevant and immaterial, and not proper re-examination and moves the court to strike out the answer of the witness for that reason.

976 Q:-When if you did claim it why did you buy it?
A:-We did not claim it.

977 Q:-The church of which you are a member did not claim it? A:-No sir, and we bought it because we wanted it.

978 Q:-You did not claim it, and therefore you had to buy it, and pay your money for it when you wanted to occupy it?

Counsel for the plaintiff objects to the question asked the witness for the reason given on the grounds as above set forth.

979 Q:-I see there is one other question I desire to ask you, and it is this,-Did you say in answering the question here, that you were not, did you mean to be understood as saying that you were bishop of a church in the Indian territory? A:-No sir.

980 Q:-Or at Pottawatomie Springs? A:-No sir.

981 Q:-You did not mean to be understood as saying that you were bishop of a church at either place? A:-No sir.

982 Q:-Did you understand that you were to be the bishop of any other church than the one here at the time you were elected and ordained bishop? A:-No sir.

983 Q:-Well they have got you to say differently, and I want to get you right, for I know what you want to say? A:-No sir, I did not mean to be understood as saying that. I am the bishop only of this church here.

984 Q:-I wanted to get you right, for I never knew you went to say that, then, at all.

By Mr. Kelley,-

985 Q:-Who is the bishop at Pottawatomie Springs? A:-Of the church?

986 Q:-Yes sir?

Counsel for the defendant objects to the question asked the witness on the ground that it is incompetent, irrelevant, immaterial, under any issue in this case.

A:-I thought I started before that I did not know of any.

987 Q:-Who is the bishop of the church in the Indian territory?

Counsel for the defendant objects to the question asked the witness for the reasons above set forth.

A:-I don't know of any. I thought I stated all this before.

988 Q:-Well I didn't think you did? A:-Well if I didn't I meant to. I guess I must have stated it anyway.

989 Q:-You are the trustee of all the property of the defendant church, are you not?

By Mr. Patterson,-"No, he did not say any such a thing, and that is improper to ask the question, and it is objected to on that reason, for in his so-called special question he states distinctly that he did not."

By Mr. Kelley,-"He did not state any such a thing. He stated the reverse."

By Mr. Patterson,-"He stated that he was only the bishop for the property here in question."

By Mr. Kelley,-"He said that they did not have any property in any other place."

990 Q:-Is that not what you stated,-did you not state that the church did not have any other property at any other place? A:-I don't know of any other.

991 Q:-You are the trustee for all the property of the defendant church,are you not? A:-I am the trustee for the property here in Independence. I don't claim to be the trustee for anything else.

By Mr.Prayer,-

992 Q:-With your permission Mr.Southern,I will ask the witness a few questions. It is regarding a matter which I understand and it will save time and trouble by my asking them.

By Mr.Southern,-"Very well. Go ahead.

By Mr.Prayer,-

993 Q:-Mr.Hill,I want to ask you a question.

By Mr.Southern,-"Well I think in view of the technical skill those gentlemen have displayed in regard to the nature of an examination that we will object on the ground that we have,-and that is to cross attorney concerning an examination."

By Mr.Prayer,-"Well I will endeavor and not make a mistake at all,-I will try it subject to your objection hereafter.

994 Q:-Mr.Hill do I understand you to say that you accepted all of the revelations just prior to 1835? A:-If you do understood me you misunderstood me. I said I accepted the revelations,but some of them however,that came just from '29 up to '33 and possibly '34.

995 Q:-Well now can you state what ones you believe and which ones you do not believe? A:-Well I can't exactly name them,but there is a good many that I don't actually believe in.

996 Q:-Well I want the ones given from 1832 to 1833 or '34,-the revelations just during that time do you accept or reject? A:-Well,---I don't know what

997 Q:-I understood you to say,-if I understood you correctly,-that the Nodaviate church rejected some of the revelations,-in fact all of them,that is to say subsequent to 1834,and that is the point at which they split from the rest of the believers in Jackson County or is that right? A:-I don't exactly.

998 Q:-Do not revelations you refer to that you do not believe in that were given prior to 1833? don't know one of them? A:-I don't remember but there is one or two that we don't know whether they were true,or not true,and we neither accept nor reject them.

999 Q:-Do you tell what they are and the date of them? A:-No sir,not now.

1000 Q:-Do you know they refer to? A:-No sir.

1001 Q:-You are not sure that? A:-No sir,not exactly.

1002 Q:-Do I understand you to say that you cannot tell either what they refer to or the dates at which they were given,-that is the revelations that you reject, that were given prior to 1833? A:-No sir,I can't do it now.

1003 Q:-Are they in the book of Doctrine and Covenants? A:-Yes sir,I think they are. They are all in there.

1004 Q:-Did then you make use of having read the book of Doctrine and Covenants before coming here,did you at any time repudiate any of them before coming here? A:-Any of what?

1005 Q:-Any of the revelations before coming here? A:-Any that are contained in the book?

1006 Q:-Yes sir,did you at that time repudiate any of the revelations,-that is before you came here,did you at any time repudiate any of the revelations that were contained in the book of doctrine and covenants? A:-I don't know what you mean,-

1007 Q:-Of course I know that you repudiate the revelations that were given after 1833,-it is the ones prior to that time I refer to? A:-Well I don't understand that we repudiate them all,-we think they are liable to criticism,and we look upon them with suspicion that were given after that time. There was some that we did not understand and we just took them at what they were worth,-not rejecting them or accepting them,-we did not take them as correct or as false.

1008 Q:-You believe all those revelations with reference to Zion, you believe in them and accept them as correct,do you not? A:-Yes sir,partly,-not all of them,but part of them we do.

1009 Q:-You give them a qualified approval by way of acceptance? A:-Yes sir.

1010 Q:-In what part do you not approve? A:-I believe them like this so far as I understand them. I do not claim to have a correct understanding of all that, and I don't claim to have a correct understanding of it.

1011 Q:-Will there be one thing, that you do understand as you say,and that is that this place here was designated as a gathering place for the saints? A:-Yes sir.

1012 Q:-You believe that revelation? A:-Yes sir.

1013 Q:-Will you that revelation speaks of a gathering place for the saints,-it speaks of the gathering of the saints,and a place for the erection of the temple,-it does not? A:-Yes sir.

1015 Q:-And that you believe of course? A:-Yes sir.

1016 Q:-Will you if you believe that,you believe then it was a direct revelation from God? A:-Yes sir.

1017 Q:-You believe that? A:-Certainly.

1018 Q:-There is Joseph Smith,the prophet and seer? A:-Yes sir.

1019 Q:-Do you believe that is a revelation from God? A:-Yes sir.

1020 Q:-Does you that revelation say that the place for the temple is contrary from the Court House,that do you understand by it? A:-What do I understand by it?

1021 Q:-Yes sir? A:-I understand by it just what it says; I think it is plain enough.

1022 Q:-That that are the place selected by God and designated in his through the revelation given by him through Joseph Smith,as the place for the temple? A:-Yes sir.

1023 Q:-Do you rap on a line from Nauvoo you were like my old friend-he had come here before you did,anxious to see the place which was supposed to be sacred

ground? A:-Well I don't know about that. I don't know that I was so terribly anxious.

1024 Q:-Well you had some curiosity to see it,did you not perhaps? A:-I might have had.

1025 Q:-Well did you have some curiosity to see it? A:-I might have had some curiosity to see it.

1026 A:-Well did you hear that is the revelation,-did you? A:-Well I reckon I did.

1027 Q:-Do you have curiosity enough to find out and look up the particular spot of ground,which had been designated by God Almighty as the place for the erection of the temple? A:-Yes sir,I think so.

1028 Q:-Just so well?

By Mr. Southern,-

I029 Q:-And your curiosity was sufficient was it,to make you willing to spend your money to buy it from the owners? A:-Yes sir.
I030 Q:-And you did that? A:-Yes sir.
I031 Q:-That is all Mr.Hill?
By Mr.Kelley,-"That question is objected to with the answer,on the ground that it is incompetent,irrelevant and immaterial,and not re-examination."

William B. Wilson,of lawful age,being produced,sworn and examined on the part of the defendants,testified as follows,-
Direct examination by Mr.Southern,-
By Mr.Southern,-"Before proceeding,I wish to state that seems to stipulated when present the defendants from offering their testimony as to the tax payment,right now; it is agreed that the defendants have the right to introduce their testimony on the tax question,if it be material,and no objection on the account of the tax payment will be made by the plaintiff to the defendants going so,-that is no objection will be made by the plaintiff to the introduction of the tax receipts,or the record of the following,and consequently,I think that stipulation may be made or the stipulation entered into for the purpose of saving time,for the purpose of expediting the trial of the proceedings. Is that correct Mr. Kelley?,-"
By Mr.Kelley,-"That is all right. We will make no objection to this course."
By Mr.Southern,-
1 Q:-What is your name? A:-William B. Wilson.
2 Q:-Mr.Wilson,where do you reside? A:-In Jackson County, Missouri.
3 Q:-Here in Independence? A:-Yes sir.
4 Q:-How long have you resided here? A:-Oh,off and on, nearly all my life.
5 Q:-How old are you Mr.Wilson? A:-I am fifty six years old.
6 Q:-Do you now reside here most all of your life,I believe you stated? A:-Yes sir.
7 Q:-Where did you live in your boyhood? A:-Most of the time here in Independence.
8 Q:-Were you born here? A:-No sir,but I was quite young when I came here.
9 Q:-At what age did you come here? A:-Three years of age.
10 Q:-In what year did you come here? A:-In Independence.
11 Q:-At what point in Independence? A:-Down here by the depot mill.
12 Q:-Where is Frazier's mill situated? A:-It is situated on Spring Street.
13 Q:-Which is it with reference to the Westport road? A:-It is east of the Westport road.
14 Q:-That is Frazier's mill is east of the Westport road? A:-Yes sir.
15 Q:-Where is it with reference to the Missouri Pacific depot yard? A:-Do you mean the main line depot?
16 Q:-Yes sir? A:-Yes we stayed in sight of that.
17 Q:-How far is it of that? A:-About a quarter,-a little over a quarter of a mile from that part I have so lived.
18 Q:-That is a little over a quarter of a mile east of the main line of the Missouri Pacific railroad? A:-Yes sir. We lived there on Spring Street,a little east of Swope's place,-Logan Swope's place.
19 Q:-I am I present to you a map marked exhibit "A.S.O.", and ask you if the street near about the middle of that map,running north and south is called Spring Street? A:-What is that?

20 Q:-I asked you if that street running north and south where near about the middle of that map should be called Spring Street? A:-Yes sir.
21 Q:-That is Spring Street? A:-Yes sir.
Counsel for the plaintiff object: to the question asked the witness on the ground that it is leading-irrelevant and immaterial.
22 Q:-What property would this be here as designated within these blue lines?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial and leading.
23 Q:-Can you answer the question? A:-I don't know what it would be called.
24 Q:-Well would you be acquainted with the property within the blue lines if you lived any where on Spring Street? That is, if you lived any where on Spring Street east of this property?
Counsel for the plaintiff object: to the leading for the reasons above set forth.
A:-I don't know where it is, is it east of Spring.
25 Q:-Well when you run on the map here a blue line that appears to be to represent the Westport road,would it not?
Counsel for the plaintiff object: to the question for the reasons above set forth.
A:-Yes sir.
26 Q:-Do you know where Nebraska Street is in this city,-or Wood Street? A:-Yes sir.
27 Q:-Do you see a blue line on this plat or map that would represent that street? A:-Yes sir.
28 Q:-You see where the main line of the Missouri Pacific Depot ground: are,do you not? A:-Well I should say I do.
29 Q:-Do you recognize a blue line on this map that would represent the line of that railroad? A:-No sir.
Well now I could not tell you whether it runs right along the line of that railroad does that or not.
30 Q:-If the main track or main of that railroad,I mean? A:-Well it is some where near it,-that is it is where it is, I think that is it there. That is where it ought to be anyway.
31 Q:-Now Mr.Wilson, with reference to the blue line marking the eastern boundary of this map,can you locate a point known as Woodson's house,-Woodson's residence? A:-Yes sir,-let me see.
32 Q:-It is not within the blue lines at all,but with reference to it? A:-What do you want to know.
33 Q:-Can you find the point at all,that represents the place where the old Woodson house or residence was located?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent,irrelevant and immaterial.
A:-Well I can't find it.,I don't think I can find it.
34 Q:-Well Mr.Wilson,can you recognize a line on the map representing Walnut Street? A:-Yes sir.
35 Q:-Does Walnut Street run through here,or is it connected with the property represented within these blue lines?
Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.
A:-It runs through it.

36 Q:-Where would you locate the old Woodson residence with reference to Walnut Street?
Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is immaterial, irrelevant and immaterial, and leading.
A:-Well, let me see,-he used to live down near where Mr. Reed lived, down near the mill. Do you mean where he built the new house? Is that what you want?
37 Q:-Yes sir,-where did he build the new house, and where did it, and with reference to Walnut Street?
A:-Well it was to a change along here on this place in question.
38 Q:-Do you say it is this piece of ground or is the one east of it?
Counsel for the plaintiff object to the question for the reasons above set forth.
A:-Well, as I could see my way, see me see,-I think it was on this one here.
39 Q:-Well suppose you recognize this ground plat here,-this piece of ground here as the north half of Lot, the 8 at Woodson's addition, then tell could you recognize that new Woodson house building?
Counsel for the plaintiff objects to the question asked by defendant on the ground "that it is immaterial, irrelevant and immaterial with reference to Lot 8 & the building condition whether it be north or south of it."
A:-I think it was on the north of it.
40 Q:-Will you do it, be east or west of it? A:-Not so good sir. I can not tell from this plat, for it seems to be sort of left-hand to me this way.
41 Q:-Well will you say to place there? This is north and this is south, and this is east and that is west. Could it be east or west of that? A:-Well I could not say exactly. Now this is Walnut Street, you say?
42 Q:-Yes sir, that is Walnut Street? A:-This is Walnut Street, north to the west.
43 Q:-Is this a pleasant street in and out? A:-Yes sir, north and south.
44 Q:-Is there a Nebraska street, or Union street running north and south? A:-Yes sir, that is Union street here.
45 Q:-Do you know Woodson's residence,-the brick residence,-with reference to Pleasant street?
A:-It was east of Pleasant street.
46 Q:-Well how far was it of Pleasant street was it?
A:-I do sir, it is east of Pleasant street.
47 Q:-Well that is what I want to know,-state about how far east of Pleasant street it is? A:-I guess about three hundred and fifty yards.
48 Q:-Do you know or not its relation to Walnut street?
A:-It is south of Walnut street I think.
49 Q:-Is it south of Walnut street? A:-I think so. What is this on running over by George Shores?
50 Q:-Yes sir? A:-Well that would be south of Walnut street probably a quarter of a mile.
51 Q:-Can you locate that residence within those lines or outside of them?
Counsel for the plaintiff objects to the question asked the witness for the reasons above set forth.
A:-What is west?

52 Q:-Yes sir? A:-And this is south?
53 Q:-Yes sir? A:-What is that?
54 Q:-Then is the quarter section line? A:-This is Union street.
55 Q:-Yes sir,-how far would it be from that? A:-I don't know how far it would be from Union street. I don't really think that it would go over within the blue lines.
56 Q:-If the blank space within the blue lines that don't belong by addition should be the Christman pasture, [illegible] the Weaver residence so?
Counsel for the plaintiff objects to the question [illegible] the witness: for the reasons above set forth, [illegible] ruled that it is leading.
57 Q:-[illegible] opinion? A:-It would be [illegible] of it. I [illegible] it, [illegible] of it.
58 Q:-[illegible] line here? A:-No sir.
59 Q:-[illegible] that the blank space that is within the blue lines would be known as the Christman [illegible] A:-Yes sir?
60 Q:-The old Christman house is part of that? A:-Yes sir.
[illegible] old Weaver house I suppose?
61 Q:-Yes sir, the old Weaver house is part of that?
A:-Yes sir.
62 Q:-The [illegible] of the blank space within the blue lines? A:-Yes sir.
63 Q:-[illegible] of it?
Counsel for the plaintiff objects to the question asked [illegible] ruled that it is leading [illegible]
[illegible]
A:-[illegible] two hundred yards.
64 Q:-[illegible] enclosure,-how long [illegible] there [illegible],if there is one,-[illegible],-I [illegible] the Weaver residence?
Counsel for the plaintiff objects to the question asked [illegible] the witness: for the reasons set forth, it [illegible] correct.
A:-[illegible] I can [illegible].
65 Q:-[illegible] you recollect? A:-Well I was [illegible] I [illegible] it [illegible] enclosed [illegible]

66 Q:-[illegible] in 1883 and '87? A:-Yes sir,that was [illegible] I was going to school,and I recollect that it [illegible] then.
67 Q:-It was [illegible] the enclosure run from the [illegible] immediately east of the blank space? [illegible] enclosure go running west and south [illegible] street? A:-In what way?
68 Q:-In the way I have described,-how far would that [illegible] that we the know,extend at that time? Counsel for the plaintiff objects to the question for [illegible] set forth.
A:-[illegible] to the Old Westport road.
69 Q:-[illegible] line here is representing the Westport road [illegible] it out? A:-Yes sir,and from there it went south [illegible] I can remember. I mean north,up Walnut street.
70 Q:-[illegible] it go? A:-It went down to the railroad.
Then [illegible] all fence down there where the railroad is [illegible] from at the Davison property.
71 Q:-So then was the space represented on this map here represented by the blank space,and within the blue lines,south of Walnut street and north of the blue line representing the line of the railroad,and east of the blue line representing the Westport road and west of the blue line marking the east of the tract on the map all osclosed?
Counsel for the plaintiff objects to the question asked

[illegible] objection on the ground that it is incompetent, and immaterial and leading.
A:-I think it was.
72 Q:-Then if it was enclosed, as how early a date was it enclosed? A:-I could not say.
73 Q:-How old were you when you saw it to be enclosed first? A:-About twelve or thirteen years old, or ten years old, [illegible] there [illegible].
74 Q:-How old were you when you lived there? A:-At the time I was living there it, I [illegible]?
75 Q:-You say, how old were you [illegible] there? A:-Twelve or fourteen.
76 Q:-Were you that old [illegible] there? A:-Yes sir.
77 Q:-[illegible] there no old [illegible]? A:-[illegible] living [illegible] then I [illegible] triple, and [illegible] on up,- 78 4 - [illegible] as far as first [illegible]?
79 Q:-[illegible] you [illegible] there [illegible] years old? A:-[illegible] I [illegible] old when [illegible] to tell: [illegible], [illegible] up to [illegible] there when [illegible] first [illegible], and [illegible] there, [illegible] there, [illegible] in.
[illegible] first lived [illegible].
80 Q:-[illegible] enclosed, [illegible] school [illegible] enclosed? A:-Well [illegible] I [illegible] school [illegible] enclosed, I [illegible] that, [illegible] in [illegible].
81 Q:-[illegible] school? A:-[illegible] school [illegible].
82 Q:-[illegible] owner [illegible]? [illegible] asked [illegible] for the [illegible] it [illegible] and [illegible] it.
A:-[illegible].
83 Q:-[illegible] question [illegible] since [illegible]?
Counsel for the plaintiff objects to the question for the reasons above set forth.
A:-[illegible].
84 Q:-[illegible]? A:-[illegible] full of [illegible] I think. If I [illegible] clearly [illegible] in [illegible] full of [illegible] that [illegible] within it.
85 Q:-[illegible] enclosed [illegible]?
Counsel for the plaintiff objects to the question for the reasons above stated.
A:-Yes sir.
86 Q:-[illegible] enclosed? A:-Yes sir.
87 Q:-[illegible] ever it [illegible]?
Counsel for the plaintiff objects to the question for the reasons above stated.
A:-[illegible].
88 Q:-[illegible] of exercising the right of ownership over it [illegible]? A:-Well I expect [illegible] the charge of it.
89 Q:-[illegible] question [illegible] of it?
A:-I don't know.
Counsel for the plaintiff objects to the question for the reasons above set forth.
90 Q:-What is your answer? A:-I don't know ~~exactly~~ exactly how long it was, but it was for some time.
91 Q:-Will you state that he had charge of it in 1850?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is leading, and immaterial to any of the issues in this case.

A:-I don't know.

92 Q:-Do you know of any body but Woodson having charge of it?

Counsel for the plaintiff objects to the question for the reason: Move not forth.

A:-I don't know of any body but Woodson and Swope: Woodson and Christman I mean.

93 Q:-Do you know at what time Christman has charge of it?

Counsel for the plaintiff objects to the question for the reason: Move not forth.

A:-No sir.

94 Q:-[illegible] charge of it after the [illegible] A:-Yes sir.

95 Q:-Will Christman [illegible] it? A:-Christman took much of it [illegible].

96 Q:-Do you know [illegible] obtained it from [illegible]?

Counsel for the plaintiff objects to the question asked the witness: For the reason: Move not forth, and for the additional reason that it does not lay the foundation.

A:-[illegible] it from Woodson.

97 Q:-Do you know where the Woodson and Swope [illegible] A:-[illegible] sir.

98 Q:-Is it [illegible] lines? Counsel for the plaintiff objects to the question asked the witness on the ground: For the reason that it is incompetent, irrelevant, and immaterial, and

[illegible] call for the best evidence.

A:-[illegible] sir.

99 Q:-Is it [illegible] lines? A:-Yes sir.

100 Q:-Do you know [illegible] any [illegible] on the Woodson and Swope [illegible] prior to the [illegible]?

Counsel for the plaintiff objects to the question for the reason: Move not forth.

A:-I don't know.

101 Q:-What [illegible] what? A:-I say I don't know what [illegible] or not.

102 Q:-Prior to 1880 I would say? A:-Well you [illegible] the persons living out there.

103 Q:-You say there were a few persons living out there?

A:-Yes sir.

104 Q:-Do you or did you know of any one who occupied [illegible] of Omaha over Nebraska and [illegible] addition or any part of it prior to the [illegible]?

Counsel for the plaintiff objects to the question asked the witness on the ground: For the reason that it is incompetent, irrelevant, and immaterial, its leading [illegible] of the evidence, and calls for an expression of opinion on the witness.

A:-I do sir,-well yes I did too,-I knew of several persons [illegible] on the corner where Harnoc's house is.

105 Q:-[illegible] name of any of those persons? A:-I know a man by the name of Dunn.

106 Q:-He lived there? A:-Yes sir.

107 Q:-About there would that be on [illegible] this map? A:-It was about there.

108 Q:-What would be on that lot?

Counsel for the plaintiff objects to the question for the reason: Move stricken.

A:-It was on the corner of Boxington and Union streets.

109 Q:-Was Nebraska street ever called Union street?

A:-What is that?

110 Q:-That the street that is marked "Nebraska" street,

I31 Q:-If you are fifty six years of age now,that would
[illegible] you arrive here in that year? A:-You have the
[illegible] as you can reckon it up,-
I32 Q:-Well then, [illegible] prior, you here in '39 could it
not? A:-I don't know.
I33 Q:-Well if you are fifty six years of age or that
[illegible] are the date of your birth in '83 could it not
A:-Yes sir,I expect so.
I34 Q:-And if we take three years of age when you came
here,that would take it [illegible] you [illegible]
here? A:-I was born in '36 [illegible] lived [illegible] the
[illegible] over [illegible] there [illegible] 20,
[illegible] I don't know how long, [illegible] to
[illegible] to Tuleyenne [illegible] my father
[illegible] here.
I35 Q:-[illegible] here in the open [illegible]
A:-[illegible] sir.
I36 Q:-[illegible] your [illegible] out
[illegible] [illegible] A:-[illegible] sir.
I37 Q:-[illegible] A:-[illegible] sir.
I38 Q:-[illegible] rid.
[illegible] time
[illegible] A:-[illegible] sir,con-
[illegible]
I39 Q:-[illegible] proper-
ty? A:-[illegible] sir.
I40 Q:-[illegible] A:-Yes sir.
I41 Q:-[illegible] A:-[illegible]
[illegible] my-
I42 Q:-[illegible]
[illegible] A:-[illegible]
I43 Q:-[illegible] A:-always.
I44 Q:-[illegible]
[illegible] A:-[illegible] sir.
I45 Q:-Well if [illegible] that
[illegible] the
I46 Q:-[illegible] sir.
A:-[illegible]
[illegible] church
[illegible] is
[illegible]
I47 Q:-[illegible] that
[illegible] A:-Yes sir. I [illegible]
[illegible] lot.
I48 Q:-[illegible] my color [illegible] from
[illegible] the
[illegible] you
[illegible] naked
I49 Q:-[illegible] round
[illegible] little
I50 Q:-[illegible] sir.
I51 Q:-[illegible] A:-Yes sir.
I52 Q:-I [illegible] if you have not [illegible]
that lot to people as the people lot? A:-[illegible] sir.
I53 Q:-And [illegible] the people lot? A:-Yes sir.
By Gentlemen,-
I54 Q:-Providing that property had not been designated and
[illegible] force would you have been able to
designate any identical property that is now fenced
as the people lot? A:-Well there was no fence about
it until a few years ago.

I55 Q:-Well could you,-would you have been able to point out the identical boundaries? A:- Well I don't know that I could point out any boundaries,except that it was known as the people property. Every body knew it by that name, and pointed it out as that,but at the same time,did I know it was the people property I didn't care about pointing out the exact boundaries. I know where it was and knew it was the people lot, ever since I have been here.

By Mr. Kelly.-

I56 Q:-[illegible] A:-[illegible]

I57 Q:-[illegible]

I58 Q:-[illegible] A:-[illegible]

I59 Q:-[illegible] A:-[illegible]

I60 Q:-[illegible] A:-[illegible]

I61 Q:-[illegible] A:-[illegible]

I62 Q:-[illegible] A:-[illegible]

I63 Q:-[illegible] A:-[illegible]

I64 Q:-[illegible] Counsel for the defendant objects to the question and [illegible] it [illegible] A:-[illegible]

I65 Q:-[illegible] A:-[illegible]

I66 Q:-[illegible] A:-[illegible]

I67 Q:-[illegible] A:-[illegible]

I68 Q:-[illegible] A:-[illegible]

I69 Q:-[illegible] A:-[illegible]

I70 Q:-[illegible]

By Mr. Tupper,-

I71 Q:-Wait a moment. Now I want to ask you if it is not true that the ground on that particular lot, as designated and marked on that plat as the "people property" slopes in every direction of the compass? A:-Yes sir.

I72 Q:-And if that is not the crest? A:-No sir.

I73 Q:-That is the highest spot? A:-Yes sir, that is the highest spot.

I74 Q:-The highest spot there is designated on that map? A:-Yes sir.

I75 Q:-And you could tell when you were on the highest spot? A:-Yes sir.

By Mr. Southern,-

I76 Q:-Do you not know how many acres there were? A:-No sir. I don't know by you count how many acres there was or anything of the kind. I just know that it has always been called the tow-pile lot since I have been here, ever since I was a boy. Everybody knew that it was always the tow-pile spot that was the tow-pile.

Witness,-I. G. Weiss in rebuttal.

Jos. A. Taylor, of lawful age, being produced, sworn and examined on the part of the defendants, testified as follows,-

Direct examination by Mr. Southern,-

I Q:-Mr. Taylor, how long have you lived here in Thompson-Canada? A:-Since '51, except that for some years, since the war I was away.

2Q:-Will he take up the book and turn to your map attached to depositions? A:-Well I would do it.

3 Q:-Do you recognize the plat which I now have marked exhibit "A.S.S." as indicating my boundaries around Jute Swamp? A:-Yes, sir.

4 Q:-Do you recognize that, say A:-Yes sir, my I recognize the property that is indicated on that map. I recognize the property on that map.

5 Q:-Do you recognize the property within the blue lines on map? A:-Yes, sir.

6 Q:-Do you or do you recognize any of that property as being enclosed?

Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial.

A:-Well, from the time I came here I presume. At that time I was a boy living down here in the neighborhood of that property, and while I was school I used to come down here in this neighborhood.

7 Q:-Do you mean the to you say some there? A:-Yes, sir.

8 Q:-Was it inside or outside of the blue lines? A:-Well it was about Pleasant street. I presume no land in here, I do there.

9 Q:-Was it inside these blue lines? A:-No sir. I don't know. I must have been alone in here to some extent in his house I am.

IO Q:-Then you do not mean by your reference to the enclosure of the property lying within the blue lines? A:-I do whether it was enclosed?

II Q:-Yes, sir? A:-Well, I presume for it there was a road as I recollect, and I think this was all vacant property until Vocation and Perkell's addition was laid off here.

I2 Q:-You mean that that which is colored pink, and that part there enclosed by the blue lines was vacant property until that time? A:-Yes sir, all that was vacant property? ~~A:-Yes sir.~~ Is Q — Now you say all that was

I4 Q:-What do you call by "all this"? A:-That from Walnut street up north of the Westport road. It was what we called the tow-pile lot, and the Westport road was what we called the western line of it. It was the western ~~[illegible]~~ line of the Vocation pasture, and I have forgotten what kind of a fence was along there but I know there was something along here.

I5 Q:-Along Walnut street west? A:-Yes sir.

I6 Q:-Running from the Westport road through here? A:-Yes sir.

17 Q:-Running east through here (indicating point on plat)
A:-Yes sir.
18 Q:-Do you know anything about that addition? A:-Yes sir, I have a recollection of the time that was laid off.
19 Q:-Was there on the south of the addition ever enclosed? Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial.
A:-Yes sir.
20 Q:-That was north, and this was Woodson's pasture, and Woodson lived over there? A:-Yes sir.
21 Q:-Was Woodson's pasture within these five lines on the plat? A:-There was a fence between the house and the pasture, there was a gate in there. It might take all that to tell, I don't know exactly.
22 Q:-Are these lines, that is referring to the line street, Cherry line street, is this the land? A:-The line street is well as I remember it, pretty close to the fence.
23 Q:-Are you north? A:-Yes sir.
24 Q:-Within the line lines? A:-Yes sir.
25 Q:-Are you acquainted with the location of the gate? A:-Some well I think.
26 Q:-Where was the gate? A:-On the north, there was a line fence separate it from his lot.
27 Q:-Was there a fence separated with the line line on the north? A:-Yes sir, I think that there was one on the lot line fence.

28 Q:-Will you state what it was? A:-Well it was a post-and-board fence. Bill Pence built along there.
29 Q:-Will it be true that that fence was always around the property on the Westport road?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial.
A:-Well, I don't know exactly that part, I don't remember through there. I think it was, I am not sure about.
30 Q:-Are you the one who erected any part of our fence on any of this property here in Woodson's addition which is now platted on the map by the name or line as you call it, of this plat, have you made any part of comprehension that is exposed by any one over any part of Woodson and extending along to the river?
Counsel for the plaintiff objects to the question asked the witness on the ground that it is immaterial, and leading.
A:-Well, a recollection is that there was a little bit of fence there. For that, I may recollection that there was a little bit of fence in there. This was all open ground around here I think. In fact I know this was a cent ground running here, for I had a run away mule for one way, one he ran in there, and I shot a hole in the side of ground and I remember that it was right in open ground at that time.
31 Q:-In what place or about what place would you describe that fence of which you were speaking?
A:-Well I don't say, but it was in there in a place,- it is my recollection that there was more than one hole down there.
32 Q:-At what time was that? A:-Well that was before the war.
33 Q:-Well how long before the war was it?
A:-Well probably along

about four or five or six years before the war.

34 Q:-Are you speaking of a time prior to or subsequent to the time of the laying off of Woodson's and Maxwell's addition? A:-It was laid off after the time I am speaking of.

35 Q:-Are you sure of that? A:-Well that is my recollection, I could not say as to the years.

36 Q:-The time you are speaking of extends back to about '93, or does it extend back of that? A:-Well I can't say, you know, for I can't remember, but I could say that it at least extends back to that. I was on that place [illegible] with Colonel Woodson when I came to my, for we [illegible] about, and I came to live by there where I [illegible] out to Pear Orchard with the [illegible] up. We could just by there on that road, [illegible] probably also from '93 on. We came to [illegible] out, for our [illegible] to sell, and I think it was from '92 on.

Cross [illegible] by Mr. [illegible]:-

37 Q:-[illegible] Colonel Woodson? A:-[illegible]

38 Q:-[illegible] Portz? A:-[illegible]

39 Q:-[illegible] was [illegible],-is [illegible]? A:-Yes, sir.

40 Q:-[illegible] lot? A:-I don't know.

41 Q:-[illegible] of it? A:-[illegible] lot?

42 Q:-[illegible] A:-I don't THINK know that I ever [illegible] it.

43 Q:-[illegible] about it, [illegible] lot or property? A:-No, sir.

44 Q:-[illegible] that? A:-[illegible] I don't [illegible] I [illegible] way [illegible] it in that way.

45 Q:-If you [illegible] my [illegible] how he [illegible] it, [illegible]? A:-[illegible], but I [illegible] property.

46 Q:-[illegible] of it [illegible] property? A:-Well over [illegible] I [illegible] here.

47 Q:-[illegible] of it, that [illegible] property? A:-Well I don't [illegible] it, but it was there, [illegible] there [illegible] lot. I don't [illegible] it.

48 Q:-[illegible] lot or property? A:-[illegible] I don't [illegible] that, [illegible] lot [illegible] of it.

49 Q:-It is [illegible] that lies within the [illegible] of the part that is enclosed,-? A:-[illegible] lot, but it is enclosed now.

50 Q:-[illegible] you to come it out to town? A:-No, sir, I don't know that my body [illegible] to [illegible] it out to town, but I have probably [illegible] lot, through the streets [illegible] I could [illegible] it out [illegible] to the lot.

51 Q:-Every body in the neighborhood knew it was the town property, did they not? A:-Well I won't say that [illegible] in the neighborhood knew it, but it was generally known as that.

52 Q:-That is what it was generally called? A:-Yes, sir, and if any body would speak of it they would generally speak of it as the

[illegible] people lot.

53 Q:-Ever since you can remember it has been called that? A:-Yes: sir. Woodson and Maxwell's addition was [illegible] there after that, and a part of it was still [illegible] the people lot.

54 Q:-[illegible] still [illegible] continued,-that is the people con- [illegible] to call it the [illegible] people lot even after part [illegible] of there? A:-Yes: sir. [illegible] people [illegible] lot, by [illegible] cor- [illegible] to [illegible]

55 Q:-[illegible] A:-Well it [illegible] the [illegible] people lot.

56 Q:-[illegible] A:-[illegible]

57 Q:-[illegible] living here.

58 Q:-[illegible] A:-Yes: sir.

59 Q:-[illegible] it, called it,- [illegible] here [illegible] the [illegible]

60 Q:-[illegible] the [illegible] people.

61 Q:-[illegible]

62 Q:-[illegible] and [illegible] with [illegible] contents. [illegible] to be [illegible] ac- [illegible] the [illegible] power [illegible] good [illegible] ask [illegible] marked [illegible] it [illegible] that it [illegible] of the [illegible] in [illegible] it." [illegible] copy [illegible] and [illegible] with [illegible] the [illegible] certificate, certificate of [illegible] the [illegible] on [illegible] that the original ~~[illegible]~~ [illegible] the control [illegible] of the [illegible] of the [illegible]

By [illegible] Kelley,-"Note the same objection."

By [illegible],-"Defendant now offers in evidence with accompanying certificate copy of deed to William Carlisle and wife to John P. St. John, marked exhibit "150" with the admissions of the plaintiff here-to-fore noted, that the original is not within their pos

[illegible] section nor under the control of the defendants or any of them."

By P. P. Kelley,-"That is objected to for the same reasons [illegible] above noted, and for the further reason that the deed is not acknowledged as required by law."

By Mr. [illegible],-"Defendants now offer in evidence copy of power of attorney from [illegible] to William [illegible], dated [illegible], and the certificate of acknowledgment [illegible] of the plaintiff that [illegible] under [illegible] defendants."

By P. P. Kelley,-"[illegible] to the [illegible] on the ground that the [illegible] position [illegible] law."

By [illegible],-"[illegible]."

By P. P. Kelley,-"[illegible]."

E. L. [illegible]

[illegible]

10:- [illegible]

[illegible]

2 Q:- [illegible]

By P. P. Kelley,-"[illegible]."

By [illegible],-"[illegible]."

3 Q:- [illegible] Kelley, did [illegible] to the [illegible] of [illegible]-if you [illegible] it

4 Q:- [illegible]

Counsel [illegible] this can convey?

[illegible] it [illegible] the [illegible]

A:- [illegible] conveyed [illegible] evidence. [illegible] in [illegible] city of [illegible], [illegible].

Counsel [illegible] to the [illegible] of the [illegible] to exclude it from the [illegible] evidence.

5 Q:- [illegible] with the property, or the location of the property this deed purports to convey?

A:- [illegible].

6 Q:- You are acquainted with it? A:- Yes sir, I built [illegible] the piece of ground.

7 Q:- Will you please point out the piece of ground on ex-

18 Q:-If it cost more than that,-I will ask you if it cost as much as three thousand seven hundred and fifty dollars?

Counsel for the plaintiff objects to the question asked the witness on the ground and for the reason that it is incompetent, irrelevant, and immaterial, and does not call for the best evidence.

A:-I could not say for it was not bought under my [illegible] or [illegible], or with my consent, [illegible] that I [illegible] in my possession in [illegible] it,-[illegible] in [illegible], but [illegible] it, and it, [illegible] for

19 Q:-[illegible] it. [illegible] to-

Counsel [illegible] objects [illegible] and [illegible] ob-

A:-[illegible] property

20 Q:-[illegible] temple

Counsel [illegible] for [illegible].

A:-[illegible] church. [illegible], that it is [illegible] property [illegible] church, and it is no [illegible] of the [illegible] in [illegible] it.

21 Q:-[illegible] temple [illegible],-[illegible] property or

Counsel [illegible] asked [illegible] for the reasons above [illegible] given.

A:-[illegible] temple

22 Q:-[illegible] lots? A:-I [illegible] say [illegible] on [illegible] about. [illegible] that subject [illegible]. I will say that, however, that it, [illegible] temple lot, [illegible] is [illegible]

23 Q:-[illegible] it, [illegible] you? A:-[illegible], [illegible] property,-[illegible]. [illegible] you [illegible] it, [illegible] if you wish to [illegible] it.

24 Q:-[illegible] claim made by the church [illegible] the lot or the other lots?

Counsel [illegible] objects to the question asked [illegible] for [illegible] that it calls for an opinion [illegible], [illegible] the witness is not competent to [illegible].

A:-[illegible] definitely in the nega-tive, [illegible] all the claim that has been [illegible] has been through myself. I [illegible] for the bishop of the church, and [illegible] the bishop. I make the claim for the other lots, that is, the lots in controversy in this suit, and I make the claim under the direction of the church.

By Mr. Prather,-"No object to the introduction of that
because it is immaterial and irrelevant, no incon-
sistent, and is not proper evidence of notoriousness."

By Mr. [illegible],-"It is admitted by both parties hereto
that [illegible] of the recorder of the county of
[illegible] and that [illegible] interest in the [illegible]
[illegible] shall be taken [illegible] the
[illegible] of the said county [illegible] certificate of [illegible]
[illegible] by the recorder."

By Mr. [illegible],-"[illegible] the [illegible] pro-
[illegible] is [illegible] [illegible] right [illegible] that
[illegible]
[illegible]."

By Mr. [illegible],-"[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible]
[illegible]

By [illegible],-"[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible]
[illegible]

It [illegible]
[illegible]
[illegible] hereto [illegible]
[illegible] positions [illegible]
[illegible] document and [illegible]

By [illegible],-"[illegible] accordance with our [illegible]
[illegible] taking [illegible]
[illegible]

Jori [illegible],-
[illegible]
[illegible]

Direct [illegible] [illegible],-
I Q:-[illegible] A:-[illegible].
2 Q:-[illegible] A:-[illegible]
[illegible] county court.
3 Q:-[illegible] county clerk of the county
[illegible] A:-[illegible] years.
4 Q:-[illegible] county clerk of the
county [illegible] A:-[illegible]
[illegible].
5 Q:-[illegible] the recorder of the county
[illegible] A:-Yes, sir.
6 Q:-[illegible] tax books of the county depositary
A:-[illegible].
7 Q:-[illegible] "tax books",-the assessor's
book, or the collector's books? A:-Yes, sir.
8 Q:-[illegible] A:-Yes, sir.
9 Q:-[illegible] in your office? A:-Yes, sir.
I0 Q:-After the collector [illegible] one with his books, there

did he return them? A:-To our office.

11 Q:-That is the office of the county court? A:-Yes sir, the office of the clerk of the county court.

12 Q:-[illegible] the records of your office so as [illegible] county [illegible]

13 Q:-[illegible]

14 Q:-[illegible] office? A:-[illegible]

15 Q:-[illegible]

[illegible] said [illegible]

[illegible] it [illegible]

16 Q:-[illegible] A:-[illegible] sir.

17 Q:-[illegible]

18 Q:-[illegible]

[illegible]

[illegible] that [illegible]

[illegible] copy [illegible]

[illegible] objects [illegible] sum, [illegible] is not [illegible]

[illegible]

[illegible] county [illegible]

nations written d[illegible] [illegible] pres-

ence of each and all of said witnesses, in short-hand in pursuance of an agreement and stipulation entered into by [illegible] hereto [illegible] wherein it was agreed and stipulated that the undersigned Notary Public should take all of the depositions of all of the witnesses for both parties hereto as well as record all other testimony introduced of whatever nature or character and that the signatures

of the witnesses to their several depositions as herein set forth, should be, and the same were thereby waived, and it was agreed that their said depositions might be certified by the undersigned as a true and correct copy, and have the same force and effect as if the they had been formally subscribed by the aforesaid witnesses. I further certify that formal certification of the depositions herein was also waived by the parties hereto in my presence, and it was agreed that it shall not be necessary for these depositions to be formally certified to the court in which the cause is pending, and that no objection could be taken by either party hereto, to any irregularity that may exist in the caption or form to said or certificate.

I further certify that the fees for taking these depositions are for writing five hundred and fifty two (552) folios (552, 00) at five cents per folio (5¢) and twenty folios of the exhibits, at the rate of twenty cents per folio of one hundred words, amounting in all one thousand one hundred and four dollars ($1,104.00).

In witness whereof I have hereunto set my hand and seal this, the day of September, 1929.

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Notary Public.